Mine waste haul begins

Flagmen guide motorists near Beeftrail Road

By Betsy Cohen
of The Montana Standard

Neon orange safety vests lit up Beeftrail Road Thursday morning, as flagmen stopped and directed motorists safely across the newly built haul road.

Thursday marked the first day of ARCO's project to move mine waste from the Colorado Tailings in Lower Area One to the Clark Tailings.

The tailings, which are being moved as part of ARCO's Superfund cleanup of Silver Bow Creek, previously were being hauled 25 miles to Opportunity by train.

In an effort to speed up the cleanup in Lower Area One, Butte-Silver Bow County commissioners recently approved an ARCO and county proposal to truck the material 1½ miles to the Clark Tailings.

Sandy Stash, manager of ARCO's Montana facilities, said it will take about a year to haul the mine wastes to the Clark Tailings, nearly 1½ years faster than if rail shipments to Opportunity continued.

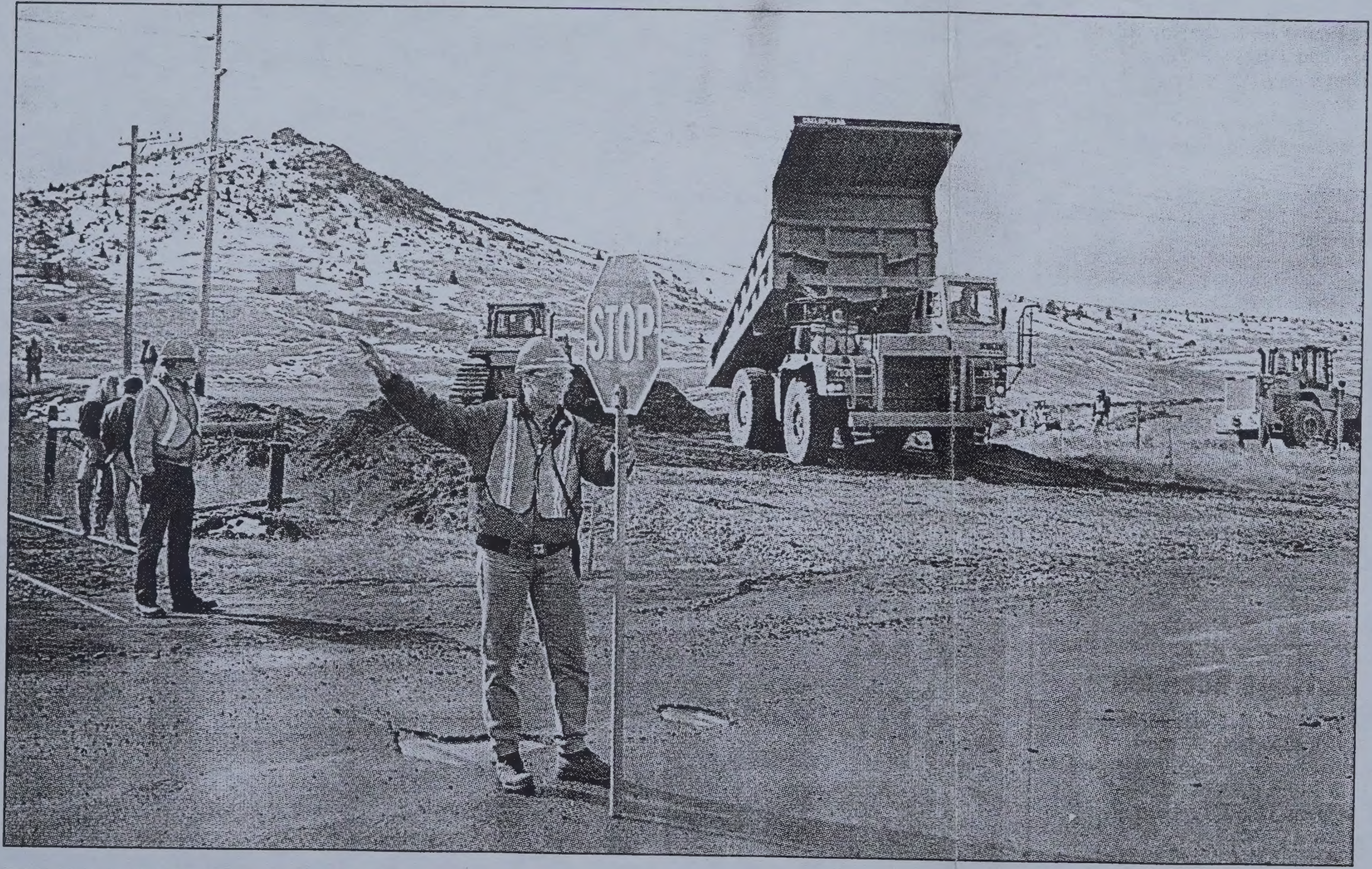
The public can expect two haul trucks to cross the intersection every two minutes, Stash said.

Air monitoring systems have been set up to monitor construction-related dust, and water trucks will be on hand to keep haul road dust to a minimum, said Chuck Stillwell, ARCO's project manager for Lower Area One.

"This is very exciting," said county Chief Executive Jack Lynch, who was at the intersection Thursday morning to see how the flagging system will work.

"When this is all through,

See MINE WASTE / Back Page



WALTER HINICK / THE MONTANA STANDARD

BOB KRUCKENBERG of Barnard Construction Co. directs traffic at the intersection of Beeftrail Road and ARCO's new haul road in Butte Thursday. ARCO's Sandy Stash said it will take about a year to haul the mine waste to the Clark Tailings. The public can expect two haul trucks to cross the intersection every two minutes, she said.

Plan unfinished for new 45-acre recreation park

By Betsy Cohen
of The Montana Standard

The amphitheater is out and the children's play area is in.

But the rest of the plan for a new 45-acre recreation park is still being fine-tuned by the Butte-Silver Bow County Parks and Recreation Board members, and the 15-member ad hoc committee, said Bill Melvin, a county commissioner and adviser to the committee.

The park is expected to be built atop the Clark Tailings and adjacent to the old county landfill.

"It's been a long, slow-moving process with so many people involved," Melvin said Thursday. "We are trying to make the park as multi-use, as diverse as we can," he said.

Melvin said the committee is still kicking around the arrangement of ball fields and the placement of the 300-car parking lot.

"Some of the changes to the plan is that the Little Guy football field will be moved to the outfields of the baseball fields," he said. "That way there is no overlap of the football fields with the baseball fields — we all thought that was a pretty good idea."

The committee is also discussing the benefits of a covered grandstand at the American Legion baseball field, paved pathways for handicap and elderly, hiking and cross-country skiing trails, a baseball court, a beach volleyball court, and picnic areas with gazebos, Melvin said.

The committee met three times since it was formed last week. Melvin said members plan to present the refined land usage plan for the park to the commissioners' April 16 meeting.

The committee members include the parks and recreation board, Don Renz, Betty Merrifield, Buck Dundas, Emmett Fogerty and Jim Michelotti; along with Bob Rowling, Jon Sesso, Bill Melvin, David Malloy, Vennetta Whitford, Cindy Stergar, Jim Hanley, Ted Turnow, Chuck Stillwell, Kim McCarthy, Brad Archibald, Joe McClafferty, Gina Konen, Wayne Paffhausen and Charlie O'Leary.

Say no to drugs

Former NBA player urges kids to make right choices

By Joe Paisley
of The Montana Standard

Former NBA basketball player Spencer Haywood made some bad choices when it came to cocaine.

The turning point in his addiction came when his daughter attended a DARE (Drug Abuse Resistance Education) school assembly and was able to identify cocaine, heroin and other drugs by sight.

That was all well and good. She won a DARE T-shirt for sharing that knowledge.

But when asked how she knew about these drugs, specifically cocaine, the second-grader described how her parents would sniff or freebase the drug in the bathroom.

HIS embarrassment about the assembly and knowing his child was aware of the drug use prompted Haywood to seek treatment.

Now, 13 years later, Haywood wants Montana youths to avoid that kind of embarrassment and make the right choices. He spoke Thursday at the 11th annual Caring for Kids Conference, where making right choices is the central message.

The two-day, two-track conference at Fairmont Hot Springs Resort concludes today. It features prevention classes for the 100 adults attending and motivational speakers for the 200 high school students there.

Besides drug abuse, the conference also focuses on other threats Montana youths face including gangs; and on issues such as juvenile law and probation and community policing.

Missoula police Officer Guy Baker spoke to the adults about "prototypical" gangs found in Missoula and what steps police can take to keep

From bull to bear?

days at sea than
allowed, using too many crew

Corp: $766,000; Hudson Corp.:
$719,000; Cape Spray Fisheries

Department.

s day care
s at home

·feited.
"God intended for the home
be the center of a mother's
rld," the church said. "In
us 2:5, women are instructed
be 'discreet, chaste, keepers
home, good and obedient to
ir own husbands..."
The day care center closed
rch 14. The church's pastor,
de Gray, and the day care's
rd members could not be
ched for comment; Gray's
one rang unanswered
ursday.
The closure infuriated par-
s.
"I don't think any of us are
ing to copy a man's role,
atever that role may be,"
d Alexander. "I still don't
w what those roles are. My
band does dishes just like I
"
The Arkansas Department of
man Services expedited a
mit for the First Christian
rch, also in Berryville, so it
ld accept the 27 children.
'We understand that the
tist church felt women
king outside of the house
a sin against God," depart-
nt spokesman Joe Quinn
l. "What we did was expedite
ing a license for the other
rch because we know that in
day and age people are
ly dependent on day care."
arents were given refunds
th a week's tuition plus $50.
some, including Sandra
s, a 26-year-old bank teller
was forced to find a new
e for her daughter
andra, said the center's
ipment should also go to a
day care, since their
ey helped pay for it.
It's just not Christian what
did," Ms. Giles said. "If
would like to pay my bills I
ld stay home."

Mine waste ...

Continued from Page A1

the community will have a finished project with something on top for everyone to enjoy," Lynch said.

A 45-acre recreation park will be created on top of the 18-inch clay and soil cap that will cover the tailings and the adjacent old county landfill.

The park will be ready for public use in the summer of 1999, Lynch said.

Barnard Construction Co., ARCO's contractor for the project, has stationed two crossing guards at the intersection to direct traffic.

The company asks that motorists:

- Always stop at the intersection's stop signs.
- Wait at the stop signs for direction from the crossing guard.
- Proceed across the intersection when directed to do so by the crossing guard.

Anyone with questions about safety procedures or comments about how the traffic is being handled at the intersection can call Bob Kruckenberg, Barnard Construction project safety and health manager, at 723-1121. Any other questions about the project should be directed to Eric Jacobsen of ARCO at 723-1141 or 490-1907.

Right choices ...

Continued from Page A1

Lakers for drug abuse. Five years later, he retired and became an addict.

After he retired "I thought maybe I could do it this one time," Haywood said. "The next day I got a couple ounces for myself and the wife and the next day and the next day ... It wasn't addictive. I just did it all the time."

Haywood, now 47 and living in Detroit, said it is even easier for today's youths to get addicted by experimenting with drugs.

"Today's kids have so many more drugs out there and they are even more addictive," Haywood said. "They're vulnerable in a culture that encourages people to take pills for acid indigestion before they even have the symptoms. In my time, the choices were very simple — marijuana, heroin and cocaine. I just made the wrong one."

Market ...

Continued from Page A1

says he has increased the cash portion of his portfolio and gotten rid of some of the more speculative shares he held in favor of larger, more stable companies.

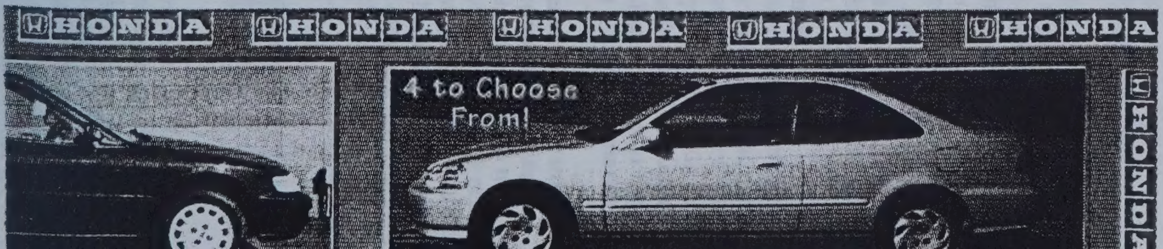
Worried about a bear market?

"I'm protecting against it," he says, "but I don't think it's going to happen."

One factor in the market's favor: There are no troublesome events like tensions in the Persian Gulf driving up oil prices or big imbalances in the economy, like a spate of corporate bankruptcies. Such things can precede, or trigger, bear markets.

"At this point, I don't see enough of them to say that we're going to have a severe decline in the market or the economy," says A. Michael Lipper, president of Lipper Analytical Services, a research firm.

Lipper, though, thinks there could easily be a market decline of 20 percent to 30 percent, which would rank as a moderate bear market. That would take the Dow down as low as 4,960, where it stood in late 1995.



FOR THE
RECORD

B[illegible]h

March 19
In Powell County Memorial Hospital, Deer Lodge
Boy: Jared Alan Pomeroy

Parents: Cathy and Glen Pomeroy of Deer Lodge. **Weight:** 8 lbs., 9 oz. **Siblings:** Heidi, Justin and Matthew. **Grandparents:** Alex and Ardy Jackson of Stevensville, Gayle and Ted Mizner of Deer Lodge, and Vern and Shelley Pomeroy of Corvallis.

Deaths

Belgrade — Leonard Mahurin.
Bigfork — Robert Byhoffer, 7[illegible]
Bi[illegible]andy — Anna Munsey, 85.
Billings — Frederick W. Spoerl, 83; Sophia S. Pappas, 95; Onesimo F. Valenzuela, 85; Merle A. Mount, 94.
Butte — Douglas Garland, 54.
Conrad — Gladys Mortensen.
Corvallis — Mary Clark, 81.
Froid — Ardis S. Floodine, 53.
Glendive — Gladys Boyd, 73.
Great Falls — Darren L. Vielle Jr., 7; Maria Vino, 81; Evangeline R. Ireland, 83.
Hamilton — Eugene Pettey, 85.
Helena O Everett Ballard.
Kalispell — William L. Stolte, 82; John W. Vollhaber, 86; Opal I. Swallow, 82.
Lewistown — Lonita D. Smith

Panel to review tailings park design

BY BETSY COHEN
of The Montana Standard

> *"If we can't agree on a plan for the park, we'll take as long as we need to hammer out the details."*
>
> **Bob Rowling, county director, parks and recreation**

After two community meetings held this week on the land usage plan for Butte's proposed new recreational park, an ad-hoc committee will be formed to hammer out a final blueprint of the park.

The proposed 45-acre recreation area will be located at the old county landfill and the Clark Tailings site. Funding for the park will be primarily from ARCO, under Superfund mandate, and partly from Butte-Silver Bow County.

The committee will be made up of residents from neighborhoods near the park; individuals who have attended both community meetings; representatives from American Legion and Babe Ruth youth softball/baseball leagues, Little Guy football and the Butte Copper Kings; members of the Butte-Silver Bow County Parks and Recreation Board and county commissioners Bill Melvin and Charlie O'Leary, said Bob Rowling, county director of parks and recreation.

Rowling said a schedule for the ad hoc committee has not yet been made, but he expects its members to meet several times before they agree on a final land usage plan. He said he expects to bring that final plan to the county commissioners sometime in mid-April.

"But obviously, if we can't agree on a plan for the park, we'll take as long as we need to hammer out the details," Rowling said.

The original plan brought forth to the public in February included six softball fields, a golf driving range and two Little Guy football fields.

After numerous public hearings and community meetings, a number of citizens spoke out in favor of ideas not included in the original plan for the park.

The public feedback prompted ARCO, along with county officials, to extend the decision-making period by adding this week's two community meetings and encouraging the creation of the ad-hoc committee. The meetings Tuesday and Thursday were hosted by the parks and recreation board.

During the meetings, several people lobbied for a state-of-the-art safe play area for toddlers, a hockey rink, more trees throughout the facility and a vegetation buffer along the east border of the park for residents who live on South Montana Street.

A comprehensive trail system for walkers and hikers, lawn bowling, horseshoes pits and shuffleboard areas were other suggestions from the public.

American Legion and Babe Ruth representatives were vocal about adding at least one championship-level baseball field with a covered grandstand for spectators.

Ted Tornow, general manager of the Butte Copper Kings, would like to see a 5,000-seat stadium built so the team could lease it from the county for baseball games.

Although ARCO is footing the bill for building the park, taxpayers will be responsible for maintaining it, said Jon Sesso, county planner.

During the meetings, many voiced their concerns that the county is having difficulty maintaining the parks it already has and spoke in favor of including money-making features in the plan to help with maintenance costs.

Some ideas included a miniature golf course and batting cages — activities that do not involve heavy buildings or structures that might interfere with the weight-bearing capacity of the 18-inch clay and soil cap that will cover the area.

Probe: State's mental health contracting

BY KATHLEEN MCLAUGHLIN
of the Standard State Bureau

HELENA — The state didn't bend any rules or show favoritism when it chose a managed-care company to take over a lawsuit from Vista, a California-based managed-care company that vehemently maintains the process was tainted. Vista claims the winning company inappropriately offered jobs to those who awarded the contract bidding process last fall.

This week, Dal Smilie, chief legal counsel of the Administration Department, threw out the complaints, saying that after "extensive investigation," he found no irregularities that this process was fair."

In response to the complaints, Smilie said:

■ A 100-page limit on technical proposals was not violated, because the extra pages Montana Community Partners

Public Notice From

Arco and

Barnard Construction Co. Inc.

Lower Area One/Clark Tailings Project

Tentatively Starting March 24th, Barnard Construction Co. Inc. will be hauling with large trucks across Greenwood Ave. and Beeftrail Road during daylight hours. Barnard Construction Co. Inc. will take all the necessary precautions to cross these roadways in the safest possible manner while minimizing delays to public traffic. Your cooperation and patience is greatly appreciated and needed to make these intersections safe. All public vehicles and pedestrians will be asked to follow the procedures listed below when approaching and using these intersections, during Barnard's working hours.

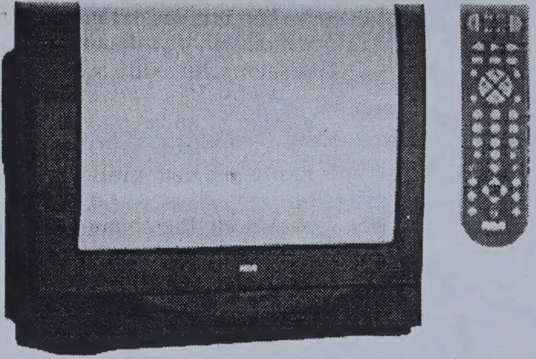
INTERSECTION PROCEDURES

- Stop every time at the stop signs before each intersection.
- Wait at the stop signs for direction from the crossing guard.
- Proceed across the intersection when given direction to do so by the crossing guard.

QUESTIONS AND CONCERNS

- Questions regarding these procedures or regarding the safety of these intersection should be directed to Bob Kruckenberg, Project Safety & Health Manager of Barnard Construction Co. Inc. at 723-1121.
- Any other questions or concerns should be directed to Eric Jacobsen of ARCO at 723-1141 or 490-1907.

Please adjust your schedule to allow an extra couple of minutes when traveling on these streets. Again, your cooperation and patience is greatly appreciated and needed to make these intersections safe.



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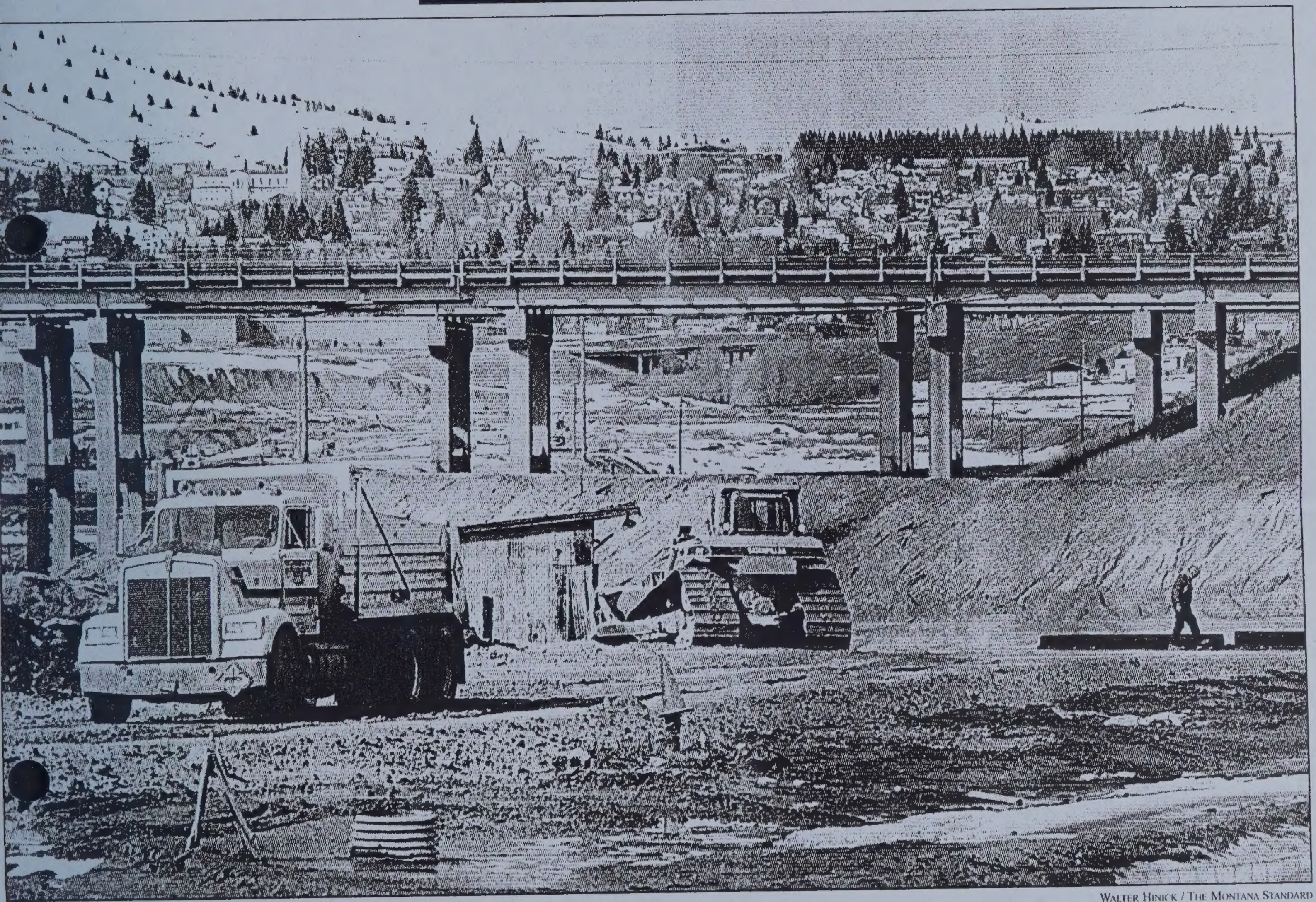
▨ Butte basketball player named to All-Conference team .... See S

The Montana Standar

50 cents

Wednesday,

WORKING ON THE HAUL ROAD



WALTER HINICK / THE MONTANA STANDARD

CONSTRUCTION is under way on the haul road for the transport of mine wastes from the Colorado Tailings area to the Clark Tailings area near Timber Butte. Trucking of the contaminated fill is expected to begin next week.

Tailings move starts Monday

BY BETSY COHEN
of The Montana Standard

Lower Area One, the Superfund site along Silver Bow Creek, is once again swarming with activity.

Barnard Construction Co., a contractor for ARCO, has started building the new $1^1/_2$-mile-long haul road to truck the Colorado Tailings from Lower Area One, through the Montana Pole plant up to the Clark Tailings.

The mining wastes were being transported to Opportunity by train until the end of November. Activity at the site ceased until Butte-Silver Bow County commissioners recently approved ARCO and the county's plan to move the Colorado Tailings to the Clark Tailings, close the adjacent old county landfill and cap the entire area.

Two hauling trucks will cross the Beeftrail Road and Greenwood Avenue intersection every minute and half, with one truck hauling the waste to the site, and one returning empty to LOA, said Dan Schall, Barnard's project manager.

Schall said that he expects the haul road to be finished early next week and the actual hauling of the tailings to begin around Monday, March 24.

Trucks will haul a total of about 1 million cubic yards of tailings during the yearlong project. Seven trucks will operate six days a week and only during daylight hours, Schall said.

Two crossing guards will be stationed at the intersection to direct public traffic and make the crossings as safe as possible, said Bob Kruckenberg, project safety and health manager for the company.

The company asks that motorists in the area:

- Stop every time at the stop signs at the intersection.
- Wait at the stop signs for direction from the crossing guard.
- Proceed across the intersection when give direction to do so by the crossing guard.

Anyone with questions about these safety procedures or comments about how the traffic is being handled at the intersection can call Kruckenberg at 723-1121. Any other questions concerning the project should be directed to Eric Jacobsen of ARCO at 723-1141 or 490-1907.

Region
for me

BY PERRY BACKUS
of The Montana Standard

DILLON — The combination of this spring's first warm spell and near-record snowpacks in the surrounding mountains have officials keeping a close eye on area rivers and streams.

"We are preparing for the emergency the best we can," said Madison County Commissioner Bill Doggett. "But it's something that you just can't predict where or when it may happen."

Doggett said Tuesday that officials will closely monitor weather conditions and hope the nights remain cool to slow the runoff from snowpacks tha average about 135 percent of normal in Madison County. Normally, the largest problem occur on the Ruby River side o the county in late May or early June after the Ruby Reservoir fills, he said.

With flooding a very strong

Butte ar
no flood

BY LORIE HUTSON
of The Montana Standard

Rising water in area drainage ditches and around homes has Butte officials watching the weather, but the haven't been any flooding pro lems so far, they said Tuesday

"We really haven't seen an flooding per se, yet," said Jim McCarthy, Butte-Silver Bow County road foreman.

In the last few days road crews have hauled gravel to areas of Little Basin Creek Road and South Rocker Road Melting snow and thawing tu some places in those roads to "gumbo" every year, he said.

Crews plan to keep their e

Shefelbine said Wednesday night. Shefelbine said the sisters' parents, William and Mary Busch, were leaders in building the church.

summer cottage on Basin Creek and often entertained the women of their church.

"My earliest memory is of

See WILL / Back Page

several fami

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Butte. The ra

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Public given more time to comment on park plan

By Betsy Cohen
of The Montana Standard

Ballpark critics: You've been heard and your wish has been granted.

County commissioners decided at Wednesday's meeting to give the public 30 more days to decide on the final land-use plan for the proposed 45-acre recreational park at the Clark Tailings and old county landfill.

The council voted to truck the Colorado Tailings to the Clark Tailings, combine the tailings with the closure of the landfill, and seal the area with an 18-inch clay and soil cap.

"People wanted more time to decided what to do with the park," said Jon Sesso, Butte-Silver Bow county planner. "We heard a lot of people say at the meetings this month 'Why a ballpark?' "

The council will work with BSB Parks and Recreation Board, and the BSB Planning Board to solicit more public input.

An ad-hoc committee of residents from the neighborhoods affected by the park, members of little league softball, and Little Guy Football organizations will be created to refine and change the current plan.

"Hopefully we will get all the people who commented on the

See PARK PLAN / Back Page

'Community policing' program aimed at reducing crime, fear

By Lorie Hutson
of The Montana Standard

Before the days of organized, uniformed police officers, law enforcement was in the hands of citizens.

Policing usually took the form of vigilante mobs and sheriff's posses who handed down justice. And although citizens are discouraged from taking the law into their own hands these days, police departments want to get back to the heart of that kind of policing — a community-driven program.

"Community policing is not a new concept, it is a basic concept that involves getting back to the people," said Butte-Silver Bow County Sheriff John McPherson.

Local police are starting a program to get the community involved in helping police solve local problems that lead to crime.

They call it community-oriented policing, but officers who are spearheading the project don't want Butte citizens to think it's just another law enforcement buzzword that means the police will keep their old policies and do the same things under the guise of a different name.

This weekend they're asking local leaders, government and county employees, church leaders, senior citizens and anybody else who is interested to come to a training session on community policing. It begins Sunday, March 9 and lasts three days. Sessions are from 8 a.m. to 5

See COMMUNITY / Back Page

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By Bill He
of The Mon

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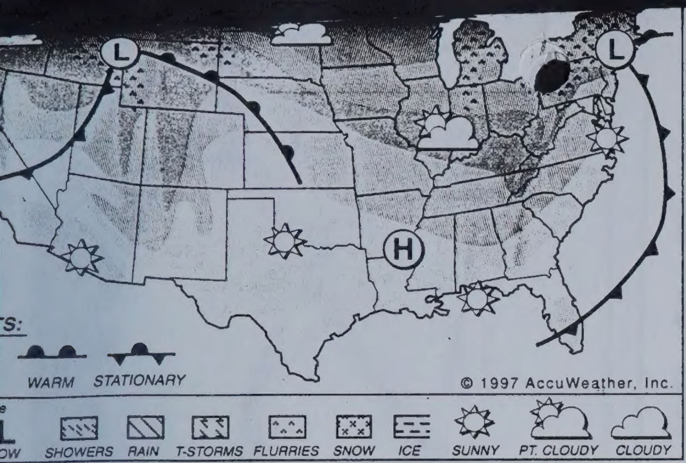
INSIDE

Daily Briefing A2

Thwarting skiers



terday in Montana

50 at Hamilton

-1 at Cut Bank

High	Low	Pcp.
45	18	
25	13	
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44	20	
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42	21	
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41	18	
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15	03	tr
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25	04	tr
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34	14	
40	12	tr
26	09	tr
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34	18	.02
26	11	tr
38	25	tr
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38	26	
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34	06	
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terday in the Nation

89 at Pasadena, Calif.

-27 at Fosston, Minn.

	High	Low	Pcp.	Otlk
	44	31	.02	clr
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	80	54		cdy
y	45	29		clr
	69	68	.01	cdy
	48	43	.08	clr
n	80	52	.17	clr
	20	-7	.02	cdy

Cincinnati	51	43	.06	cdy
Cleveland	46	39	.08	sn
Columbus,Ohio	49	41	.10	cdy
Dallas-Ft Worth	65	45		cdy
Dayton	49	42	.08	cdy
Denver	46	15		cdy
Des Moines	34	18		cdy
Detroit	45	33	.05	cdy
Duluth	23	6		clr
Evansville	51	48	.01	clr
Fairbanks	24	-11		cdy
Fargo	12	-22		cdy
Flagstaff	42	18		clr
Grand Rapids	38	31		cdy
Honolulu	79	71	.03	m
Houston	78	70	.02	cdy
Indianapolis	43	41	.40	clr
Jackson,Miss.	83	67	.20	clr
Jacksonville	87	61		cdy
Juneau	28	22		mis
Kansas City	42	23		cdy
Las Vegas	63	39		clr
Little Rock	65	54	1.12	clr
Los Angeles	80	48		clr
Louisville	55	48	.15	clr
Lubbock	57	27		cdy
Memphis	68	65	2.00	clr
Miami Beach	83	73		cdy
Midland-Odessa	60	38		cdy
Milwaukee	37	28	.01	cdy
Mpls-St Paul	21	6		cdy
Nashville	62	51	2.03	clr
New Orleans	81	67		clr
New York City	45	37		clr
Norfolk,Va.	58	45		clr
North Platte	47	12		cdy
Oklahoma City	51	32		clr
Omaha	41	14		cdy
Orlando	87	63		cdy
Philadelphia	46	36		clr
Phoenix	77	48		clr
Pittsburgh	m	34		sn
Portland,Ore.	46	38	.20	m
Providence	48	34		clr
Raleigh-Durham	75	44		clr
Rapid City	37	9		cdy
Reno	65	19		cdy
Sacramento	68	34		cdy
St Louis	39	34	.02	clr
Salt Lake City	46	25		cdy
San Antonio	69	69	.06	cdy
San Diego	74	50		clr
San Francisco	60	41		cdy
Santa Fe	48	19		clr
St Ste Marie	34	20		sn

Continued from Page A1

Ann riding her bicycle and encouraging us to learn," she said. "They really took me under there for me."

Their wings were clipped with old age. Both developed leg problems that forced them to live in nursing homes.

"I know Ann thought it was so

Park plan ...

Continued from Page A1

land-use issue during the public hearings to give us their input and get more people involved in the final recommendations of the land use," he said.

Many citizens spoke out in favor of designing a golf course, a toddler play area, and creating more hiking trails.

A final decision on that plan will be made with the input from the committee and from yet-to-be scheduled public hearings.

Commissioners will make their final vote for the park's future April 5.

When the proposed plan was introduced to the council Feb. 5, they were only given 16 days to review it. But after two public hearings and neighborhood meeting, the council extended the comment period another 15 days.

The trucking of the Colorado Tailings to the Clark Tailings and capping the entire area will begin at the end of the month.

Community ...

Continued from Page A1

p.m. at the Copper King Park Hotel. Those who want to attend should call Sgt. Jerry Williams or Lt. Ray Russell at 782-4224 to register before Friday.

"What we're going to try and do with this is reduce crime, reduce the fear of crime and improve the quality of law enforcement," Williams said. "But we need to be able to do that in a partnership with different facets of the community — and if we don't, we continue on the same road we're on."

Williams said the first step is to get citizen input on what the department does well, what they need to improve and what Butte citizens expect from the officers.

The common perception of community policing is cops on a

Galen ...

Continued from Page A1

ty, a local task force was assembled: Jim Davison, Gene Vuckovich, Russ Bilodeau, Bill Finnegan, Jack Haffey and Con Malee are helping promote the idea, and, judging from the comments Wednesday night, the task force has a captive audience.

Retiree Joe Micheletti of Anaconda told the crowd that he strongly supports the idea, not only because it would be the first major influx of jobs into the county since the 1980 closure of the Anaconda Co. smelter, but also because it would make the county safer. Just take a look at the court listings in the newspaper, Micheletti urged, if you need a reason for building a prison that would keep more criminals off the street.

"It's amazing the number of individuals who have an address within 100 miles of our community," he said.

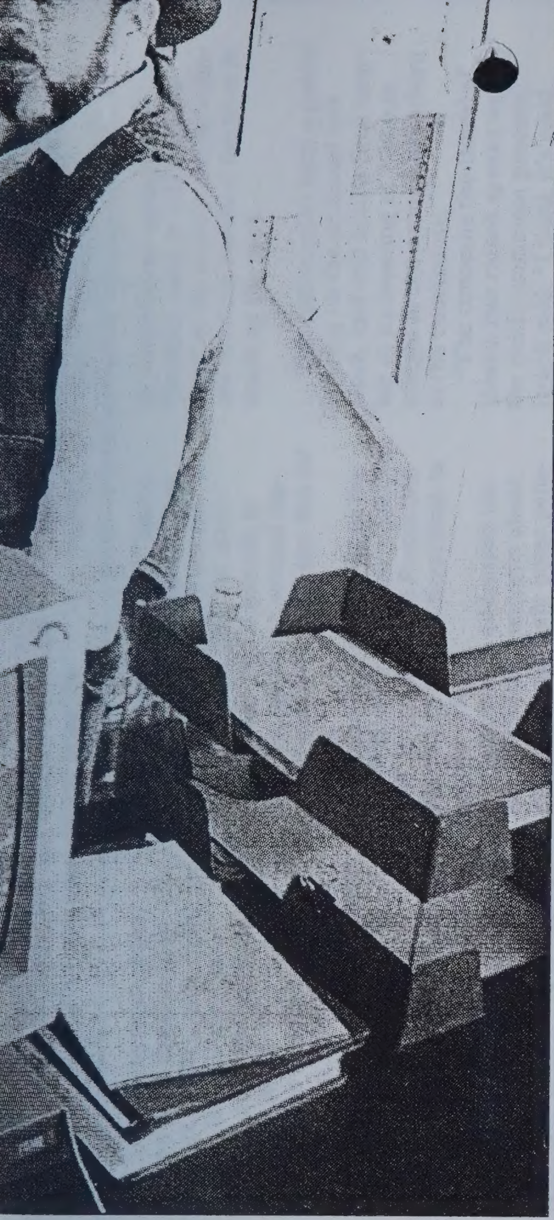
John O'Donnell, a longtime Montana Power Co. employee also voiced enthusiastic support and encouraged people to drive southwest Montana," O'Donnell said.

The new prison likely would save local taxpayers a big chunk of change in the long run, said local Chief of Law Enforcement Joe Guiberson. The county currently uses police officers instead of jailers to monitor inmates while they could be out patrolling the streets, and, as his predecessor Jim Connors often said, it is only a matter of time before an inmate takes legal issue with the rusty bathrooms, the poor ventilation or the fights and suicide attempts that result from the poorly-constructed jail.

"I'm really not concerned a whole lot that the federal government is going to come in and close our jail down; I believe it's going to fall down first," he joked.

Guiberson said moving county jail inmates to the Galen facility would free up three officers to monitor the county. Right now, convicts, especially women, are sometimes delayed in entering the jail because of lack of space.

"Two officers had to travel all the way to Hardin to get a prisoner who should have been in jail but wasn't because we didn't



WALTER HINICK / THE MONTANA STANDARD

Proposed rec facility spurs questions about health

BY BETSY COHEN
of The Montana Standard

The Butte-Silver Bow County Board of Health has some concerns and questions it wants addressed before the county commission decides next week on the proposed recreational facility at the Clark Tailings and old county landfill site.

In a Feb. 19 letter to county Chief Executive Jack Lynch and the county commissioners, board member Thomas Malloy and Chairperson Phyllis Egan said the board has endorsed the proposed plan in concept only. They also said:

"At this time, the BOH can not endorse the proposed actions entirely because several technical questions and issues have yet to be resolved to the satisfaction of the board."

The letter included 17 concerns or questions the Board of Health members want addressed.

Specifically, the board asks that an air monitoring plan be

See HEALTH / Back Page

CO ...

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century of mining and smelting in Butte and Anaconda.

Browning said if the state obtains money through the lawsuit, the governor, through an executive order, will establish the Upper Clark Fork River Basin Natural Resource Damage Board, comprised of businessmen, economic developers, engineers, resource managers, recreationalists and others.

Browning was quick to say that this particular board probably will be one of many that would offer advice to the governor on how to spend any money obtained through the lawsuit.

The lawsuit is scheduled to go to trial next Monday in federal court in Great Falls. The trial is expected to take several months.

Attorney General Joe Mazurek said the idea of creating the board is consistent with federal laws spelling out how the money is to be used.

"Conceptually, the idea of a citizen board to advise the gov-

See ADVICE / Back Page

Jacksonville	55	53	.23	cdy
Juneau	36	34		sn
Kansas City	47	24		rn
Las Vegas	64	47		cdy
Little Rock	57	47		rn
Los Angeles	72	55		clr
Louisville	52	30		rn
Lubbock	32	27		sn
Memphis	62	47		rn
Miami Beach	81	70	.02	cdy
Midland-Odessa	33	32		cdy
Milwaukee	35	14		sn
Mpls-St Paul	39	0		cdy
Nashville	59	40		rn
New Orleans	61	51	.08	cdy
New York City	34	20		cdy
Norfolk,Va.	40	39		cdy
North Platte	45	16		cdy
Oklahoma City	40	34		rn
Omaha	42	18		sn
Orlando	79	61	.07	cdy
Philadelphia	36	22		cdy
Phoenix	60	50	.06	cdy
Pittsburgh	39	14		cdy
Portland,Maine	24	8		cdy
Portland,Ore.	52	38		cdy
Providence	30	15		cdy
Raleigh-Durham	58	35		cdy
Rapid City	53	20		cdy
Reno	57	18		cdy
Sacramento	73	39		clr
St Louis	50	25		rn
Salt Lake City	41	21		cdy
San Antonio	48	45	.12	cdy
San Diego	66	49		cdy
San Francisco	66	44		clr
Santa Fe	38	m		cdy
St Ste Marie	31	6		cdy
Seattle	47	39		rn
Shreveport	51	45	.80	rn
Sioux Falls	41	12		cdy
Spokane	47	28		cdy
Syracuse	26	3	.01	cdy
Topeka	47	22		rn
Tucson	56	40		cdy
Tulsa	50	33		rn
Washington,D.C.	46	29		cdy

The second phase should be finished by late 1998 and will create another 110 jobs.

$15 an hour; they also will have medical insurance and other fringe benefits.

duction plant in that eastern Washington town.

Health ...

Continued from Page A1

implemented 24 hours a day, seven days a week, during all phases of excavation, transportation and construction of the site.

It wants an emergency response contact person and phone number to call in the event the cap fails and/or citizens need to report problems.

And the board is concerned about whether public health might be endangered by "non-methanogenic" organic compounds that are emitted in gas from the landfill. At its gas production peak, the landfill is expected to emit up to 8.5 tons per year, or about 2 pounds per hour, of such compounds. Some people might be hypersensitive to such gases.

With the approval of state and federal Superfund regulators, ARCO plans to truck mine wastes from the Colorado Tailings, about a mile to the old county landfill and Clark Tailings area just south of Beeftrail Road. There, ARCO would build a 39-inch clay and soil cap atop the tailings piles and build several softball fields and two Little Guy football fields.

The county commission may rule on the proposal at its March 5 meeting.

"We think the concept of the park is a good idea," said Dan Dennehy, director of the Health Department. "But questions still need to be answered."

On Tuesday, Pioneer Technological Services, which is working for ARCO on the project, responded to the questions and concerns raised by the Board of Health. Dennehy said he feels full and satisfactory answers were provided in the letter from Pioneer.

"It does relieve some technical concerns," he said. "But it doesn't resolve them because the entire board has not met to discuss them with the state."

Pioneer said it intends to include a plan for around-the-clock monitoring for gas and air quality.

It also said gas levels at the landfill are lower than what the U.S. Environmental Protection Agency considers hazardous to public safety.

Pioneer also addressed the health board's concerns about goal posts and light poles penetrating the cap.

It said the post holes will be sealed with a clay liner or bentonite chips to preserve the cap. And it said that any sewer or water lines buried beneath the cap will also be covered with a liner.

The Board of Health will meet March 4 to discuss Pioneer's response to the board's letter.

If the board still has concerns or unanswered questions, Dennehy said, it will express them at the county commissioners meeting before a decision is made on the park.

The commission held a public hearing on the proposal last week, and will hold a final hearing at its meeting at 7:30 p.m. tonight at the council chambers in the courthouse.

"The concerns the Board of Health has raised speaks we[illegible] the public comment process," Lynch said. "I think it's good. And I'm encouraged by it," he said.

"It shows the autonomous nature of the board and that it's separate from the decisions made by the Planning Department."

Lynch said if the board comes forward with unresolved concerns next week, he and the commissioners would be willing to "maintain a dialogue to address them."

Advice ...

Continued from Page A1

ernor on how the money should be spent is fine," he said. "As long as it's within federal law, and that it's in an advisory role, we have no problem with it."

Last week, a Montana Senate committee tabled a bill that would have created a citizens advisory board. The legislation was pushed by some business leaders and residents from Butte, Anaconda, Deer Lodge, Milltown and other towns along the 120-mile corridor.

Racicot's agreement to appoint the board probably will kill SB346.

Mazurek said the bill was flawed in some ways and spurred worries that it could conflict with federal laws.

"It's pretty clear that any recovery money must be spent for assessment costs and restoring conditions to their baseline state," Mazurek said. "As the bill was introduced by (Sen. Bea McCarthy, D-Anaconda), there were concerns that the bill had some broad language that may have been in violation of federal law."

Some of the language included possibly using the money for larger "social consequences" in the form of grants and funds, he said.

"Frankly, that was a concern to us. It wouldn't be consistent with federal laws,[illegible] said.

Mazurek said another key part of the agreement to appoint a board by executive order is that any money captured would be used to pay the assessment costs incurred by the state, such as loans from the coal tax trust fund that are being used to fund the NRDP staff, office and science costs.

Mazurek said there are unfounded fears among some residents in the basin that money would be spent elsewhere and would not be spent wisely.

"We have always said that it will be spent in the basin, that's simply required," he said.

America n incest by estigators

hat," Ms. Atler said. "It happens in seemingly happy, successful homes as well as others. People would say to me it just couldn't have been my father; well it was."

Research indicates at least one in five girls is a victim of ncest, Ms. Atler said. She said 900 people came forward to her with their own experiences within two weeks after she spoke out in 1991.

She hopes some good can be ound in JonBenet's tragic leath.

"This precious child has pened the door for education gain," Ms. Atler said. "We need o take this information and rotect our most vulnerable hildren."

Ms. Atler has spoken about cest in more than 160 cities ince her 1991 revelation and ays he has answered more han 7,000 letters from incest survivors.

Earlier this week, a family spokesman said the Ramseys believe they are considered prime suspects.

Reports have also surfaced indicating police have been checking the alibi of JonBenet's 20-year-old half-brother.

Police refused to comment on [illegible] reason [illegible] to the

ARCO, EPA face off on final cleanup plan

By Bill Heisel Jr.
of The Montana Standard

ANACONDA — Along the criss-cross of cartographer's lines on the map of Anaconda-Deer Lodge County, a game of chess is about to be played, and ARCO might have the edge.

The EPA Wednesday night presented to the public some of its ideas for how ARCO should clean up the area known as "Anaconda Regional Waste, Water and Soil." Through the presentation, it became clear that this would be very different from the previous few cleanups, in which the EPA basically told ARCO what to do. Already ARCO has dealt with the Old Works area (now a golf course), the smelter flue dust and the soils in the community. This is the last cleanup before the company can leave town, sometime around the year 2000 by its calendar.

At the same time, ARCO has been gradually buying up most of the contaminated land — nearly 20,000 acres — in the final cleanup area, and, given that there don't appear to be many threats to animals or humans from most of the contamination, ARCO might undertake a cleanup that's more to its liking.

"What we're telling them is that there's a limit to what we are going to be willing to do to improve our own property," said Sandy Stash, the Montana manager of ARCO's facilities. "If it's just a matter of how short the grass is in our own front yard and not about risks to animals or fish or humans, we're not going to waste money on property that we don't intend to utilize for development."

Julie DalSoglio, EPA's project manager for the area in question, said the agency is aware that ARCO's ownership gives the company more leverage, but, she said, there still is a lot of work to be done.

The EPA has just released a range of cleanup options for this final Superfund site, which is scattered all over the county, taking in parts of Smelter Hill, the slag pile, Stuckey Ridge and the Opportunity Ponds, to name a few areas. Over the next few months, the agency intends to gather opinions on what county residents would like to see done with the contaminated land. The agency will issue its final "record of decision" in September, and ARCO intends to have all of the cleanup work finished on this and the rest of the Superfund projects finished by 2000.

One of the initial findings for this area, DalSaglio said, is that river and creek contamination won't prove to be as costly to clean.

Noting that she was oversimplifying things, DalSaglio said, "Surface water issues are actually the easiest issues to deal with on this site, which is rat[illegible] ironic considering the problems on Silver Bow Creek and the Clark Fork."

That's good news for ARCO, as is the EPA's tentative decisions to leave the slag pile in place, covering up the Opportunity Ponds and finding a legal way to circumvent state water quality standards in some areas where the cost of making the water clean enough is too high.

Stash said that although the company might not want to spend money on cleaning up areas that are not going to see a lot of use, it might consider co[illegible]pensating the county by spe[illegible]ing money on other projects, such as a sewer line through the West Valley neighborhoods.

"We're not going to be successful in managing this property long term if we don't make the county happy, and when I say county I don't just mean the local government, I mean the entire community," Stash said. "This is the final closure between the Company and the community."

▼ Cleanup calendar

The U.S. Environmental Protection Agency is finishing work on the Anaconda Regional Water, Waste and Soil operable unit, which includes the Opportunity Ponds, Willow Creek, the slag pile and parts of Smelter Hill. Its draft findings on how the area might be cleaned is available at the Hearst Free Library.

■ On June 18, the agency will release its preferred remedy for cleaning up the massive site that takes up the remainder of the county's Superfund lands. There will be a 60-day public comment period on the plan.

■ On Aug. 18, the agency will begin using the comments to finish it's record of decision.

■ On Sept. 30 the agency will issue its record of decision.

To send comments about how the agency should address environmental damage in this area, write to:

Julie DalSoglio, project manager
U.S. Environmental Protection Agency
301 S. Park, Drawer 10096
Helena, MT 59626-0096.

Ohio shootout suspects have ties to Montana

Silver Bow Co,
Old Butte #20
G.W. Corr Memos
4-3

Supreme Court ruling a boost for abortion-clinic protesters . . . . , INSIDE

The MONTANA STANDARD
50 cents
Thursday, February 20, 1997

Crowd favors park plan

Comment period extended

County commissioners decided to give the public two more opportunities for comment, including:

- *7 p.m. Tuesday, Feb. 25, in the Butte Community Center at 25 W. Front St.*
- *7:30 p.m. Wednesday, Feb. 26, at the county commission meeting in the courthouse.*

By John Stucke
of The Montana Standard

2/20/97

Parents and coaches packed a public hearing Wednesday, and most favored an ARCO/Butte-Silver Bow County plan to cap a Superfund site near Timber Butte and build ballfields.

"We're going to turn a pile of red blowing dirt ... into something green," Pat Crowley, a project manager with the state Department of Environmental Quality, told the crowd of about 100. "For me, this is a priority project."

With the blessings of state and federal Superfund regulators, ARCO plans to truck nearly one million cubic yards of mine wastes, called the Colorado Tailings, about a mile to the old county dump/Clark Tailings area just south of Beeftrail Road.

When the tailings are moved, ARCO would build a 39-inch clay and soil cap atop the tailings piles and build several softball fields and two Little Guy football fields.

The plan was formally unveiled two weeks ago, and county commissioners have held two public meetings,

See PARK, Back Page

More facts needed on Clark Fork health risk

By John Stucke
of The Montana Standard

DEER LODGE — More information is needed before federal officials declare mine waste tailings in the upper Clark Fork River don't pose health risks, a Powell County doctor says.

In the next several weeks, the U.S. Environmental Protection Agency will complete work on a draft report that, based on findings at this point, apparently will indicate that people who live along the Clark Fork River between the Warm Springs Ponds and the Milltown Dam near Missoula aren't endangered by mine tailings.

The EPA's decision on

See CLARK FORK, Back Page

Lawmakers whack corrections budget

By Kathleen McLaughlin
of The Standard State Bureau

HELENA — Lawmakers cut more than $11 million Wednesday from what Gov. Marc Racicot wants to spend on corrections in the next two years, but the biggest decisions — regional jails and prison privatization — are yet to come.

MONTANA 1997 LEGISLATURE

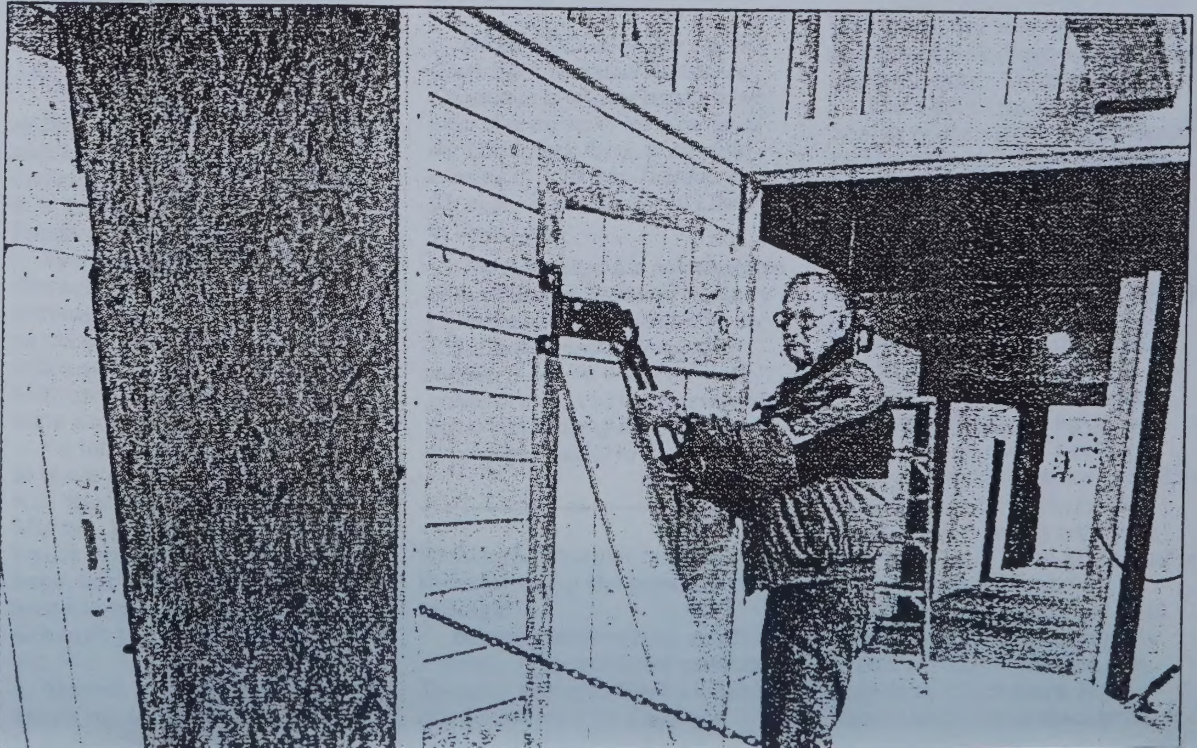
More on Legislature

Before the budgeting subcommittee hacked away dollars million proposal to increase spending on the prison system, Corrections Director Rick Day warned lawmakers not to ignore overcrowding. The state's correctional population is expected to jump from 2,300 to 3,800 in the next four years, due in part to tougher criminal laws approved by the 1995 Legislature.

"The Legislature cannot stop inmates from coming into the system by failing to fund corrections," Day told the Joint Appropriations Subcommittee on Institutions. "You can only jeopardize the safety of staff, security of our programs and communities."

However, a legislative audit dated Wednesday showed the Corrections Department has

Tools of Old West Trade



Tech vote retains student president

By Lorie Hutson
of The Montana Standard

An attempt to oust the student president at Montana Tech failed by a wide margin in an election Wednesday.

Associated Students of Montana Tech Vice President Chad Seidel said 117 students voted to retain President Chris Veis, while only 77 voted to remove him.

The special election was called by the student senate

Thursday,
February 20, 1997

BACK PAGE

■ CUSTOMER SERVICE
In Butte: 496-5500 or
Toll free: 1-800-877-1074

WEATHER REPORT

Butte / Southwest Montana

AREA FORECAST: Mostly cloudy with a slight chance of snow. Highs 30s. Tonight and Friday, partly cloudy with isolated snow. Lows 15 to 25. Highs 30s.

● **Sunset today: 6:01 p.m.**
○ **Sunrise Tomorrow: 7:26 a.m.**

West of the Divide

Today, chance of rain or snow. Highs mid 30s to low 40s. Tonight and Friday, partly cloudy with a slight chance of rain or snow. Lows 20s. Highs 30s to 40s.

East of the Divide

Today, slight chance of morning snow mainly south and east. Partly cloudy by afternoon. Windy. Highs 35 to 45. Tonight and Friday, partly cloudy. Windy. Lows teens to 20s. Highs 35 to 45.

Yesterday
▲m ▼m ✻m

Last Year
▲45 ▼33 ✻.07"

Records
▲54 in 1981
▼-23 in 1952

EXTENDED FORECAST:

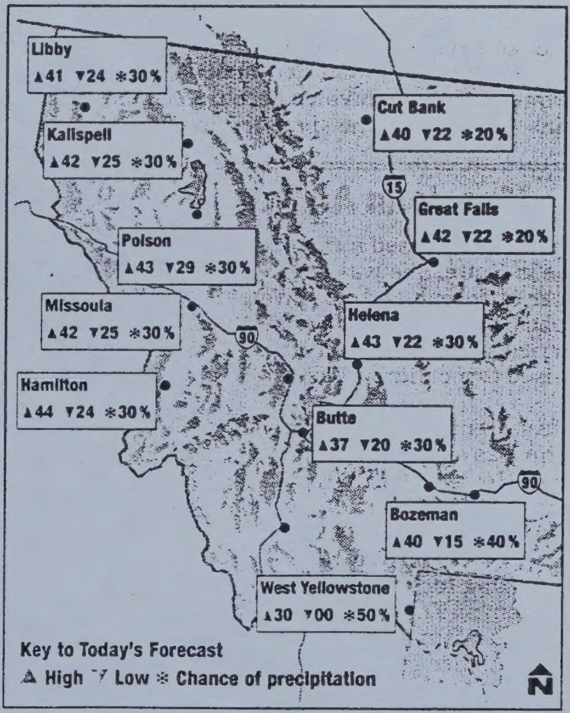
■ West of the Divide

Saturday and Sunday, scattered snow in the mountains with a chance of showers in the valleys. Highs 30s to 40s. Lows teens to 20s. Monday, few snow showers in the mountains otherwise dry and warmer. Highs 40s to 50s. Lows 20 to 30.

■ East of the Divide

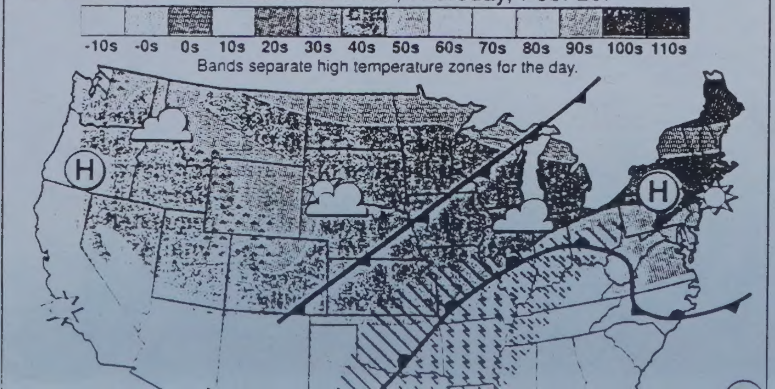
Saturday and Sunday, scattered snow and windy. Highs 20s to 40s. Lows zero to 30. Monday, mostly dry with gusty winds along the east slopes. A few flurries east. Highs 30s to 50s. Lows teens to 20s.

Today in Montana



Today's National Forecast

The AccuWeather® forecast for noon, Thursday, Feb. 20.



Park ...

Continued from Page 1

including Wednesday night's, to make sure the plan is OK with Butte residents.

By most counts, it was.

"This is a wonderful project," said nearby property owner Carl Hafer. "It's good for Butte ... and the neighborhood."

Cindy Stergar also backed the plan concept ... but asked park designers to put in a state-of-the-art toddler playground.

She handed commissioners a letter, signed by about 15 families, urging inclusion of the playground.

"The toddler thing is an excellent suggestion," said Jon Sesso, the county's planner and Superfund coordinator. "We might have to give in on one element, but I think it's a great idea."

He said any park design proposals needed to be made quickly, though, because if the plan is approved by commissioners, ARCO needs time for engineering adjustments.

"We just have to have our park footprint understood, whatever we decide," Sesso said. "We're fine to do some tweaking and fine-tuning to incorporate the ideas brought here tonight."

George Paul, who is associated with Little Guy football, said the plan would give the program's 345 gridders a much-needed place to play.

Another Little Guy football backer said the park fields would sack the players status as "vagabonds."

Although most people plugged the plan, several residents wanted more answers to sooth their safety worries.

John Ray, a member of the Citizen's Technical Environmental Committee and a Montana Tech professor, said safety regulators from the U.S. Environmental Protection Agency and state Department of Environmental Quality need to make sure the soil and clay cap meets the goals of Superfund.

He worried that the DEQ might not do a good job of monitoring. A legislative budget panel has proposed lopping 29 positions or 8 percent of DEQ's staff.

"I'm concerned that a state agency without money will be charged with monitoring," he said.

Crowley retorted that the project was a top priority for him. And the EPA's Ron Bertrum said the cap was adequate.

"In (EPA's) opinion, the cap will protect both the environment ... and human health," Bertrum said.

Cynthia Cromm, who lives in the Little Basin Creek area, told commissioners she wanted a well monitoring plan in effect.

In another development, the Butte Copper Kings pitched a new stadium proposal to commissioners.

Co-owner Tom Whaley said the professional minor league club just wants its plan reviewed.

He said a community-owned stadium could provide a source of money for the county to offset upkeep costs of the new park.

Also, he said a new stadium could host football and soccer games and outdoor concerts.

However he didn't want to force the issue.

"If people in Butte want to tell us to go jump in the Berkeley Pit, I'll be the first one with my swimming trunks on," Whaley said. "We're confident that we can bring something to the table."

About a week ago, the Kings were troubled that their proposal was left out of the new park plans.

A final decision on the plan could be made as early as March 5.

Clark Fork ...

Continued from Page A1

whether the tailings are a health risk could affect the sort of Superfund cleanup required of ARCO.

The EPA estimates nearly 4 million cubic yards of tailings and contaminated soil are deposited along the river, most of it between the Warm Springs Ponds and Garrison.

Fewer tailings probably exist downstream from Garrison, although nearly 6 million cubic yards of arsenic- and metal-laden sediments sit behind the Milltown Dam, according to state scientists.

"A lot of people are pushing to leave it alone and the river will 'heal' itself," said Dr. Mike Murnik, Powell County's public health officer. "That's a common hope, but it's not realistic. Something has to be done although I'm sure what that is yet."

Murnik is critical of statements made by the EPA's Scott Brown that human health isn't threatened by the presence of tailings.

Brown's statements, made at a public informational meeting Tuesday night in Deer Lodge, are based on EPA findings, interviews with area families and preliminary findings of a soil survey by Shafer and Associates of Bozeman, which was hired by ARCO.

"I don't think there's a huge risk here, but let's wait" until the overall findings are finished and critiqued, Murnik said.

The EPA's final ruling on health risks will be based mostly on the report, a final baseline human health risk assessment that will be available for public review in about a month.

Echoing Murnik's worries about the EPA was Kevin Kirley, a scientist with the state Department of Environmental Quality.

"With the risk assessment document draft we have, we cannot reach those findings," Kirley said Wednesday. "(EPA's) decision has been there for awhile, but I feel it would be appropriate to have all the information at hand first."

Although the EPA has said human health risks probably aren't serious along the 120-mile-long Clark Fork River Superfund Site, it does predict environmental problems such as devastated fisheries and poor conditions for vegetative growth.

During the next 15 months, the EPA plans to keep people along the Clark Fork River abreast of findings and issues that will affect the final cleanup decision, expected in mid-1998.

The EPA lists several cleanup options, including digging up the tailings and contaminated dirt from the Clark Fork River's flood plain. This plan would ship the tailings to a safer repository and allow cleanup crews to rechannel the river.

Another cleanup option might be to treat the tailings without removing them. This plan would require tilling lime into the tailings and reseeding, along with stabilizing streambanks.

Another option is to do nothing. The EPA reported that some landowners want the government to stay away and let the river rid itself of the tailings problem.

Committee seeks public comment

DEER LODGE — The Upper Clark Fork Technical Assistance Committee is inviting people to say what they expect of the cleanup of the Clark Fork River, at a public meeting at 7:30 p.m. Tuesday, Feb. 25, at the Kohrs Memorial Library in Deer Lodge.

The committee is a subcommittee of the Milltown Technical Advisory Committee, which is funded by the U.S. Environmental Protection Agency to inform and involve the public in the decision process leading to a cleanup of the Clark Fork River Superfund area.

4-3
Silver Bow Co.
S. Water Corr. Measures

[illegible] with [illegible] years suspended on several conditions. For example, he must relinquish his parental rights, agree not to contact the child, and pay what he can for his medical expenses.

Also, the judge recommended that Mercer be considered for the Department of Corrections boot camp, and that he enroll in anger management and parenting classes.

Dr. Jill Robison, the pediatrician who treated Eric before and after the assault, told the judge that although the child survived he will always lead a "tortured" life.

"Eric just had his first birthday, and he should be walking, running, saying 'mama' and [illegible] warranted. Nothing could [illegible] the damage Eric suffered, [illegible] said.

"In one horrible, tragic, thoughtless moment a child's life was destroyed, a man's life was destroyed and a family was destroyed," he said.

Cox said he hopes the case will raise residents' awareness of shaken baby syndrome, a term for the injuries caused when a baby's head is whiplashed back and forth when shaken.

"I guess there is one good thing that might come from this — in such a severe sentence for a first-time offender — is it lets people know that shaken baby syndrome is known and that it is not going to be tolerated," he said.

Opinions differ on usage of proposed park facility

By Betsy Cohen
of The Montana Standard

Every seat was taken Wednesday night at the final public hearing on a proposal to create a park at the Clark Tailings and old county landfill site.

About 70 people attended the Butte-Silver Bow County Council of Commissioners' second hearing, a week after 100 attended the first one. The eight who spoke Wednesday agreed that capping the site with ARCO dollars was a good idea.

But not everyone agreed that using the area for softball and football fields is the best use for the property.

"I don't approve of the usage of the park for ball fields," neighborhood resident Vernetta Whitford told the county commissioners. She thinks hiking trails, picnic areas and a play-

See OPINIONS / Back Page

Old Butte Cu
1 F #20
Corr Measures

MATT WHEELER slips on his gl
shower. He was pushing his son, O
weather. Otto appears undaunted

Walter Hinick / The Montana Standard

CHARLIE WORLEY sits atop the Zamboni ice grooming machine at the U.S. High Altitude Sports Center in Butte Wednesday.

Speed skating champions

Connoisseu

Charlie Worley knows when the racing surface conditions are perfect

By Lorie Hutson
of The Montana Standard

After nine years of practice, Charlie Worley can tell how good the ice is by the way the Zamboni machine handles on the last corner of the seventh lap around the oval.

If it slides on the fresh ice of the U.S. High Altitude Sports

MONTANA STANDARD

Tuesday, February 18, 1997

Old Butte T.P.

tax fervor alive

ON
Bureau

e 1997 version of a sales tax bill support Monday from its backers on from opponents, who reminded Montanans had rejected this and 1993.

l government officials, the s Association, Montana Power growers Association, Montana erce, Montana School Boards na Petroleum Association, sociation and the Montana Association and others lined up to 258, by Sen. Delwyn Gage, R-Cut

l were the Montana AFL-CIO, ic Party, Montana Senior Citizens nans Opposing Sales Taxes and

See SALES TAX, Back Page

How proposed sales tax works

HELENA — Senate Bill 258 would impose a 4 percent sales tax on goods and services, except for groceries, prescription drugs, eye glasses, prosthetic and therapeutic devices, motor fuels and newspapers and magazine subscriptions. A public vote would take place on the issue in September 1997.

It would be capped at 4 percent under a 1994 constitutional amendment and, if another constitutional amendment is approved by voters, future property-tax hikes could not be raised beyond yearly hikes in the consumer price index.

SB258 would exempt 65 percent of the first $50,000 of a home's value and eliminate personal property taxes on business equipment and livestock. State property taxes for funding education would be eliminated, reducing taxes by $311 million, with sales tax money replacing property tax revenue for schools.

Low-income people would get a sales-tax rebate of $90 per person.

FLOOD CONTROL

PATRICK J. KROHN / THE MONTANA STANDARD

ses an ax Monday to chop ice on his sidewalk on Lewisohn Street. Carr said he moved into his apart- he snow during the previous months, so he had to borrow the ax when a shovel wouldn't do the job. f 45 degrees Monday, and today's forecast calls for a high of about 45.

evidence lacking in Plummer hanging

day evening to a packed se at the Art Museum of soula.

he two, authors of "Hanging Sheriff: A Biography of ry Plummer," said in an inter- before the presentation that can prove that Plummer did run an outlaw gang in iston, Idaho, for two years, not kill a guard and escape n San Quentin, and did not r the black hat he's pictured in the mind of many tanans.

n fact, Mather and Boswell said, even Nathaniel Langford (a vigilante himself), once wrote that Plummer was a good man.

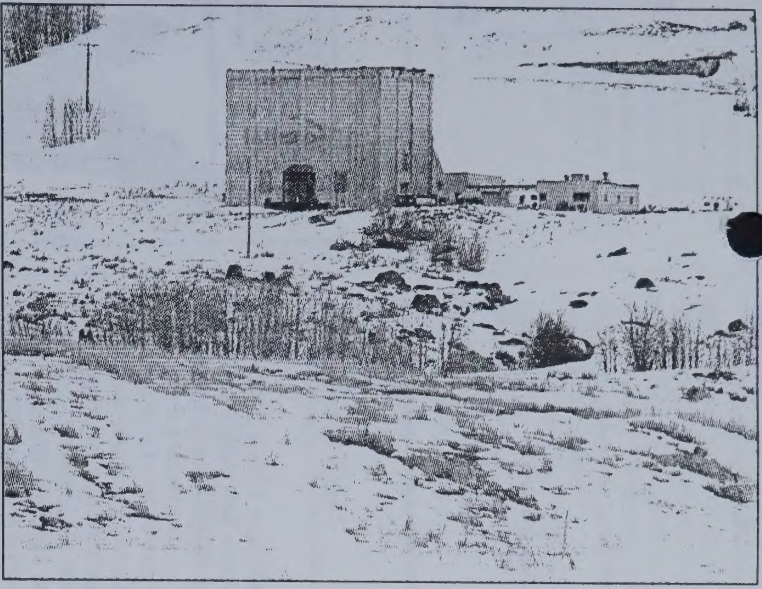
Mather and Boswell, who live in Oklahoma City, believe Plummer and the other 22 people killed by the vigilantes in 1864 were murdered for political and economic reasons. The hanging spree took place during the height of the Civil War. For the most part, the vigilantes were Unionists and they believed that their victims backed secession. Also, the vigilantes were mer-

See HANGING, Back Page

Pair to speak at rally

Historians Ruth Mather and Fred Boswell will speak today in Helena at a rally in support of the state's proposed purchase of the Bovey properties in Virginia and Nevada cities.

The public is invited to the rally, at 10:30 a.m. in the state Capitol rotunda.



PATRICK J. KROHN / THE MONTANA STANDARD

SHOWN ABOVE is the Clark Fork tailings looking north from Beeftrail Road to the old Clark mill.

ARCO's share of plan

Tailings park cost about $50 million

BY BETSY COHEN
of The Montana Standard

Who will foot the bill for the proposed 45-acre recreational park at the old county landfill and adjacent Clark Tailings mine waste site?

ARCO, mostly, says Jon Sesso, Butte-Silver Bow county planner.

According to Sandy Stash, ARCO's Montana facilities manager, it will cost about $50 million to move the Colorado Tailings to the Clark Tailings site, cap it and develop a park, and establish a water maintenance and operating budget.

That's also how much money the company had budgeted to dig up more than one million cubic yards of Colorado Tailings mine waste and ship it by rail 25 miles to the federal mine waste dumping grounds at Opportunity Ponds near Anaconda.

ARCO would spend $25 million to load the mine waste onto big dump trucks and drive it one mile to the Clark Tailings area near Timber Butte and build the park, Stash said. Reclaiming the Colorado Tailings site, monitoring water and air and funding a 30-year maintenance program would cost at least another $25 million.

Using those numbers, Stash says the park plan won't save ARCO money, but instead is a financial wash that will leave Butte with something that future generations will enjoy.

The official breakdown of responsibilities between the county and ARCO has not been made public.

County Chief Executive Jack Lynch said copies will be available at a public hearing the county commission will hold on the proposal at 7:30 p.m. Wednesday, Feb. 19, at the county courthouse.

According to Sesso:

- Butte-Silver Bow County would pay for extending water and sewer lines to the park, and take responsibility for the maintenance of park use such as caring for lawns, parking lots and softball and football

See PARK, Back Page

Safety a priority for commissioners

BY JOHN STUCKE
of The Montana Standard

Since last Tuesday's neighborhood meeting on an ARCO/Butte-Silver Bow County plan to build a new park atop a Superfund site, constituents have been calling their county commissioners.

Charlie O'Leary, District 5 commissioner, said he's talked to about 20 people both for and against the project.

"I don't really have a position on this yet," he said. "But I think we need to have every question on public safety fleshed out first."

Residents can air their questions, support and worries about the park plan at a public hearing before the commissioners at 7:30 p.m. Wednesday, Feb. 19, at the county courthouse.

O'Leary and District 9 Commissioner Bill Melvin both said motorist safety is a top priority as ARCO dump trucks rumble from the Colorado Tailings area to the old county landfill and the adjoining Clark Tailings area depositing mine wastes.

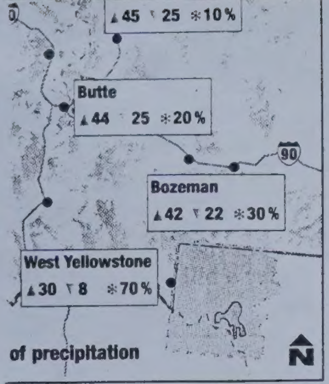
The trucks would haul nearly one million cubic yards of tailings beginning this spring. By the fall of 1998, the neighborhood could sport six new softball fields, two small football fields and a golf driving range.

O'Leary and Melvin represent the part of town that will be most affected by the construction.

"I like the idea of a win-win situation being done in a timely manner," Melvin said. "And I like the idea of us getting a park out of it instead of a fenced-in field of weeds."

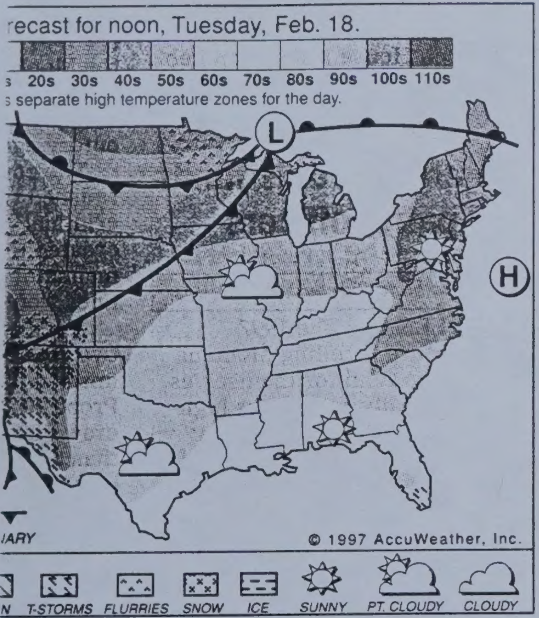
Even so, both commissioners said they want strong public support of the project and safety assurances from ARCO that tailings dust and heavy traffic don't endanger resi-

See COMMISSIONERS, Back Page



with gusty west to northwest winds. Scattered snow showers over the mountains through Saturday with a few showers over the plains. Lows 0 to 30. Highs 35 to 45.

ional Forecast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Denver	35	62		cdy
Des Moines	23	24	.03	cdy
Detroit	6	28	.07	cdy
Duluth	5	7		cdy
Evansville	23	45		cdy
Fairbanks	2	24		cdy
Fargo	10	10	.01	cdy
Flagstaff	26	54		cdy
Grand Rapids	8	27	.05	cdy
Honolulu	68	84		clr
Houston	39	68		cdy
Indianapolis	19	37		cdy
Jackson,Miss.	32	65		clr
Jacksonville	37	63		cdy
Juneau	32	34	.58	sn
Kansas City	31	38		clr
Las Vegas	49	69		cdy
Little Rock	33	64		clr
Los Angeles	53	79		cdy
Louisville	25	48		cdy
Lubbock	42	66		cdy
Memphis	33	56		clr
Miami Beach	65	82	.49	cdy
Midland-Odessa	41	66		cdy
Milwaukee	16	22		cdy
Mpls-St Paul	14	14		cdy
Nashville	27	56		clr

million a year and provide about $460 million a year in property tax relief. (See related story.)

Gage said he agreed to sponsor the measure because it was the first comprehensive tax overhaul he had seen in his tenure and "it was the kind of bill that would be good for the state of Montana. "

Gov. Marc Racicot's chief policy adviser, Mike Robinson, said SB258 "contains a well-crafted, tax-reform package.' "

the statewide school levy, saying t[illegible] "anything we can do to [illegible] education away from reliance on property taxes would be good."

"We think it's time to balance our tax structure," said David Owen, president of the Montana Chamber of Commerce, supporting the bill.

But Don Judge, AFL-CIO chief, said business likes the bill because of the tax breaks it gets,

Association and a leader of Montanans Opposing Sales Taxes.

"The people of Montana didn't want a sales tax in 1971, they wanted it even less in 1993 and they don't want it now," he said.

Another sales-tax opponent, Sen. Eve Franklin, D-Great Falls, cited a Department of Revenue analysis showing all income classes would face an overall tax increase under the sales tax except the 41,248 peo-

itself.

Some people fo[illegible]d against the sales tax want[illegible]mendments to cover their particular business. For example, Don Chance of the Montana Building Industry Association, said imposing a sales tax on building supplies would add $6,000 to $10,000 on the price of a starter home. Chance favored the sales tax but not on building materials.

Park ...

Continued from Page 1

fields.

■ ARCO would seal the tailings with a clay and soil cap, then build the ballfields and other park amenities.

■ ARCO would be responsible for maintaining the cap, building water monitoring systems and checking the park systems regularly to make sure that water from the area meets state and federal water quality regulations.

■ ARCO would be responsible for maintaining the acreage on the site that is not part of the park.

Sesso said that if any problems arise with the cap or any problems emerge in downstream wells or monitoring wells, ARCO would have to fix it.

"I can really see how (ARCO) came up with those numbers," said Pat Crowley, solid waste program manager with the state Department of Environmental Quality.

"It takes between $20,000 and $40,000 an acre to just close and cap the site. And that total area up there is 125 acres," he said. "That does not include hauling expenses, or monitoring or the operation and maintenance costs for 30 years."

If the proposal is approved by the county commission, Stash said, the hauling of the Colorado Tailings would begin in early March. The entire project would take about 1½ years.

Commissioners ...

Continued from Page 1

dents.

And both say the plan, tentatively approved by the U.S. Environmental Protection Agency and the state's Department of Environmental Quality, should provide adequate safety and monitoring requirements.

"I'm not a scientist, so I have to rely on their expertise," O'Leary said. "I don't see any other professional experts offering different information ... and EPA is saying this thing will be monitored to death."

Some residents have raised concerns that the 39-inch clay and soil cap ARCO will put over the tailings area is untested.

To make sure the cap works, surface and well-water monitoring is built into the plan.

O'Leary said at least one group of neighborhood parents wants ARCO and county planners to consider building a playground for preschoolers within the park.

And Melvin said some people want to make sure there's enough budgeted county money for park upkeep. Others want ARCO to use radios to alert drivers when school buses amble past the haul route.

After Wednesday's hearing, the commission is scheduled to wait one week before giving ARCO the nod or rejecting the idea.

If the commission approves the plan, the EPA will review the proposal and hand down a final decision in March.

Hanging ...

Continued from Page 1

chants, while their victims were working-class people.

"They (the vigilantes) did want law and order," Mather said. "They wanted their own law and order."

So how did history get so out of whack with what Mather and Boswell say is in the written records?

The vigilantes took advantage of good press, the two maintained.

Thomas Dimsdale, publisher of Montana's first newspaper and Montana's first book on the vigilantes, was probably a vigilante himself.

"Dimsdale grossly exaggerated the number of deaths at the Montana mines" in an attempt to make Plummer and the other victims into bad guys, Mather said. Once true government and order came to the territory "(the vigilantes) were afraid they might be hanged themselves. Dimsdale was not trying to write an impartial history."

Dimsdale and the vigilantes used the "tall tale" of outlaw gangs that started with the California gold rush of 1849, and followed miners to Nevada, Idaho and Montana.

"Not a single one of those bands was ever proven to exist," Boswell said. "We never discovered the reign of terror."

"There's a strong possibility that Montana has no reason to be ashamed of this early sheriff," Boswell said. "There's no 'white-hat, black-hat' here. There's a gray area."

Memorial ...

Continued from Page 1

winning design moved the nation a step closer to recognizing the warriors who fought at the Little Bighorn.

"This is probably 121 years overdue, and we're still not there yet," said Gerard Baker, battlefield superintendent.

Secretary of the Interior Bruce Babbitt will make the final choice of the design that will be built near the existing 7th Cavalry monument. The National Park Foundation, which

over five days last week.

"It wasn't quite as bad as the Simpson jury, but it was an intense five days," Burley said, smiling.

The winning design features an open circle surrounded by an earthen berm meant to recall ancient earthworks. Two-dimensional bronze sculptures of Sioux, Cheyenne and Arapaho warriors stand at one end. According to the design statement, two large wooden posts straddle a "weeping wound or cut" and form a "spirit gate" intended to "symbolize the mutual understanding of the

tures" with some features left deliberately ambiguous. For example, the design includes narratives, crafts, artifacts, offerings, petroglyphs and pictographs that would be selected by tribal members to increase the memorial's meaning for them.

The two other top winners also used circles in their designs, as did many other entries. Borkovetz's second-place design featured stainless steel poles in a tipi shape designed to produce flute sounds as the wind blew through them. The third-place design included

sisted of three men and a woman on horseback, four figures to represent the sacred number four.

"They are advancing to the east to precipitate a new journey," Stewart's design statement said. "The new journey of cultural survival."

Other entries on display on the third floor of the library depicted medicine lodges, eagles, peace pipes and buffalo horns. One design called "for the voluntary destruction of the monstrous symbol of white domination that is Mount Rushmore

Planners tackle [illegible]ossroads on South Montana Street

BY JOHN STUCKE
of The Montana Standard

One of Butte's most notorious intersections — where Hanson Road, Beeftrail Road and Montana Street collide — needs a quick fix if a new park replete with ballfields is built.

That is just one of the recommendations county commissioners heard as part of a transportation plan update Saturday morning.

Commissioners are now accepting public comment on a 45-acre park proposal that would house several softball and football fields, and a driving range for golfers at the old county landfill and Clark Mill tailings area.

While commissioners seem agreeable to the park plan, they also worry about the string of cars and kids on bicycles that would descend on the park for summer games and practice. That intersection is the quickest, most direct route there.

So expect some changes soon.

Shaun Foutch, a Helena engineer hired by Butte-Silver Bow County, has three ideas for the intersection.

The first, and most unappealing to planners, is putting up new signs, clearly designating a right-of-way.

The second idea is rerouting northbound Montana Street traffic to Hanson Road, where motorists would then meet a stop sign and either take a left to continue going north on Montana Street, or right to travel southeast on Hanson Road.

The third option would be to rebuild the intersection, including leveling the street so drivers have a clear view of oncoming traffic, and designate the Montana Street curve into Hanson Road as the main route.

The proposals are still in the planning and funding stage, however Commission chairman Mike Kerns said something will have to be done soon.

Other transportation plans deal with Butte's continued

See CROSSROADS / Back Page

More meetings ...

▨ Brown bag lunch meeting at noon Tuesday, Feb. 25, in the Montana Power Co.'s general office auditorium.

▨ Neighborhood meeting at 5:30 p.m. Tuesday, Feb. 25, in the Hillcrest School Cafeteria at 3000 Continental Dr.

■ INSIDE

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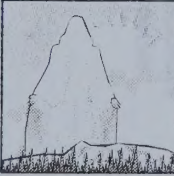
THE MONTANA STANDARD
Butte, Montana
Vol. 121, No. 269
Four sections, 32 pages

Hospital rescue
Powell County Memorial revived.

Business D1



Partly cloudy
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STONE — Ju
years ago, no
could imagine
how popular
Yellowstone
National Park would become in
winter months.

The snowmobile industry w
still in its infancy and the
machines were often hard to st
and undependable. The park sh
down its borders when the sno
flew and most of the tourism-r
ed businesses in West Yellowst
put up "Closed Until Spring" si

In the early 1960s, West
Yellowstone businesses convin
park officials to try plowing th
road between the west gate an
Old Faithful in an attempt to de
op some winter business. When
that effort stalled, the two grou
compromised to allow over-sno
traffic into the famous geyser.

And the race was on.

Public ev

Did you know?

▨ In 1807 or 1808, John Colter, who came west with th Lewis and Clark expedition, became the first white man to see what is now Yellowstone National Park.

▨ Yellowstone's 2.2 million acres includes land in Wyoming, Montana and Idaho.

▨ Yellowstone National Par has more geysers and hot springs than the rest of the world combined. There are 10,000 thermal features and 200 to 250 active geysers within the park boundaries.

▨ About 80 percent of the park is forest. The remainder is meadows and water.

▨ If you enter the park at the north entrance from Gardiner, you are traveling at about 5,300 feet above sea level, the lowest part of the park. The highest elevation is 11,358 feet at the top of Eagle Peak.

▨ After the Yellowstone River, the Gardner River is th oldest place name in the park. It is named after Johnson Gardner, a mountain man who trapped beaver in the early 1930s for the American Fur C

3 million people visit Yellowstone each year, 180,000 visitors "is really just a drop in the bucket," said Bob Seibert, Yellowstone's West District ranger. But the Park Service spends anywhere from 5 to 13 percent more per person in the winter to keep Yellowstone's ter use in the Greater Yellowstone area, Seibert said.

The Greater Yellowstone Coordinating Committee, which is developing the plan, is about ready to go the public to "truth check" the information it's gathered over the last couple of years. The finished plan may designed for recreation, not just a mode of transportation that would be better-suited for Yellowstone's groomed trails, Seibert said. The snowmobile industry is concerned about whether there's a market for a machine advocated by park officials, he said.

lem created by long lines at the park's entrance, she said.

"We're doing what we can to protect the resource," Eggers said. "We want our visitors to have a good experience and we do everything we can to make sure that happens."

Events ...

Continued from Page A1

crown jewel of the national park system.

Although the mass slaughter of bison, the threat of gold mining, the fighting of forest fires and an increasing crush of summer and winter visitors now seem to dominate most mentions of Yellowstone, they are far from the first controversies to sweep through the park:

There was the mass poaching of wildlife that led many early conservation groups to champion Yellowstone as a reservoir of wild game.

There was the bitter struggle over closing the crowd-pleasing bear-feeding sessions at garbage dumps.

There were the plans for dams in the park's waterfall-laden southwest corner and one that would enlarge Yellowstone Lake, diverting the excess through a tunnel under the Continental Divide.

Interior Secretary Ray Lyman Wilbur rose in opposition, writing in 1931 that the nation "should be the last one to attempt to mar or destroy any portion of this magnificent wilderness area, perhaps the most important natural heritage we can preserve for posterity in this country."

That Yellowstone has been and continues to be ground zero for such hard-fought struggles is perhaps the greatest tribute we could pay to the place.

Yellowstone is more than just a snapshot or postcard, it is a window on the raw and untamed Earth that is our home.

Perhaps the most vital birthday gift we could ever give Yellowstone is to continue the care that made it the first national park in the world.

Crossroads ...

Continued from Page A1

southward sprawl.

Foutch and Dori Skrukrud, a county planner, have several traffic option and bicycle route ideas.

Both will be at a brown bag lunch meeting at noon Tuesday, Feb. 25, in the Montana Power Co.'s general office auditorium. This session will focus on bicycle, pedestrian and recreational uses and the overall plan.

And at 5:30 p.m. Tuesday, Feb. 25, Foutch and Skrukrud will host neighborhood meeting at Hillcrest School cafeteria on 3000 Continental Drive to gather advice on controlling burgeoning traffic loads.

The new transportation plans differ from former proposals one at least one significant way.

Planners are not considering abolishing Harrison Avenue parking.

Recent plans crashed when shop owners on Harrison Avenue quashed such no-parking proposals for Butte's busiest business corridor.

While the new plan leaves Harrison Avenue parking alone, it instead aims to provide better north-south routes to connect Montana Street, Harrison Avenue and Continental Drive.

Foutch said he planned to wrap up the public input part of the plan this spring, and another commission workshop has been tentatively scheduled for early May.

The transportation plan is expected to help commissioners plan community traffic needs for the next 20 years.

lver Bow Co.
ld Butte #20
und Water
ee Tour Measure

STANDARD OPINION

What's the rush with park plan?

The plan for putting a recreation area atop the old ity dump site calls for a massive change in the olorado tailings cleanup plan, and for building a major ew public facility, yet the time allowed for studies, earings and comment seems to be extremely short. 'he plan was announced by County Planner John Sesso 'eb. 5. The public comment period is to end Feb. 21, nly 16 days after the announcement, and a final decision by state and federal officials is supposed to be made March 3. Does this plan really have to be rushed to acceptance in less than four weeks?

> *. . . there is no reason why foes of the plan shouldn't be given somewhat more time to make their case. And there is no reason why potential supporters of the plan shouldn't be given more time to assure themselves that the plan is, indeed, a good one.*

Currently, the Colorado tailings are being hauled by train to the Opportunity Ponds near Anaconda. It's a 50-mile round trip to the ponds site, and completing the removal will take another 3 1/2 years. By trucking the wastes to the old city landfill-Clark tailings site, two years could be cut from that time. Perhaps a million cubic yards of Colorado tailings, which contain copper, zinc and mercury, would be piled on the old dump site and covered with soil, gravel, clay and vegetation. The recreation site on top of all that would include six softball fields, a golf driving range two "Mighty Mite" football fields and later, perhaps, an amphitheater.

Already, a spokesman for the Citizens' Technical Environmental Committee (CTEC), an appointed Environmental Protection Agency panel, has charged that the real purpose of the plan is to save ARCO money. "In terms of public health and safety," said John Ray, "let's put the tailings where the public won't be ... not under ball fields where children play."

CTEC's opposition is as predictable as sunrise, but there is no reason why foes of the plan shouldn't be given somewhat more time to make their case.

And there is no reason why potential supporters of the plan shouldn't be given more time to assure themselves that the plan is, indeed, a good one.

Putting recreational areas on top of old dump sites is common throughout the United States. Everyone knows there is plenty of unwholesome stuff buried at the old Butte landfill, yet few probably would complain about putting a golf course or ball field on top of it. Adding a lot of mine waste, however, may raise special health questions. Or it may not. Montana Tech environmental engineering professor Butch Gerbrandt said the clay-soil cap planned for the waste is a standard design and appropriate for the project.

Still, anything to do with mine wastes stirs an emotional response in many people. And while it's hard to see how the plan could pose a danger to people on the playing fields, Gerbrandt said that even clay seals can crack under some circumstances, which could allow water to seep through the waste metals into the groundwater. The appearance of haste may lead some people to believe that such technological and safety questions aren't been adequately addressed. A sound plan has nothing to fear from being examined at greater length. The Colorado tailings and the old dump site will still be there.

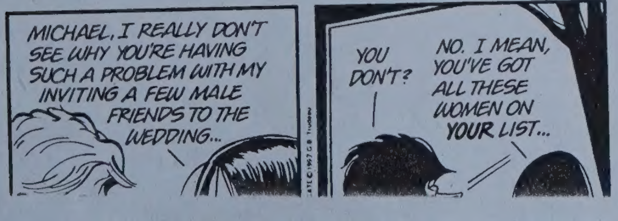
■ Editorial statement

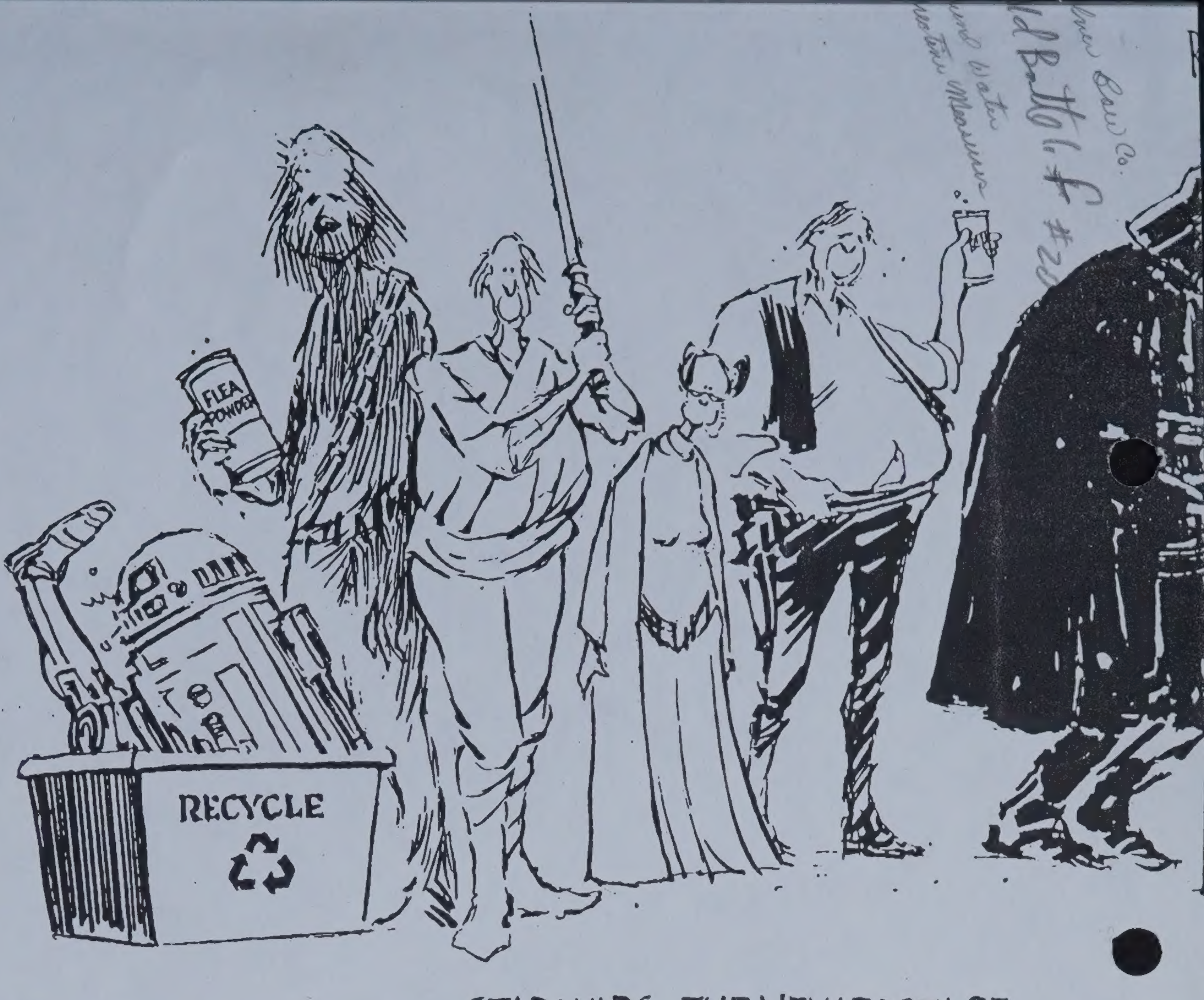
Montana Standard editorials represent the views of management. Most are written by Jeff Gibson, opinion page editor. He can be reached at 25 W. Granite, Butte, MT 59701, or by calling 496-5515

✍ Write us

The Montana Standard welcomes letters to the editor. Letters must include writer's name, full address and must not exceed 300 words in length. Mail to: Our Readers Speak, The Montana Standard, Box 627, Butte Mt 59703

Doonesbury By Garry Trudeau


MICHAEL, I REALLY DON'T SEE WHY YOU'RE HAVING SUCH A PROBLEM WITH MY INVITING A FEW MALE FRIENDS TO THE WEDDING...
YOU DON'T?
NO. I MEAN, YOU'VE GOT ALL THESE WOMEN ON YOUR LIST...



STAR WARS - THE NEW FOOTAGE

OUR READERS SPEAK

Gambling industry poorly covered

You ran an AP report Jan. 25 headlined, "Gambling lobby attacks machine monitoring." I was at the hearing and you've missed the mark. After all, twelve bureaucrats and anti-gaming lobbyists attacked the integrity of the gaming business when they testified in favor of saddling these small businesses with this dubious, multi-million dollar white elephant.

Yes, three lobbyists for gaming industry associations testified, but more importantly, about 150 gaming business operators were present and 24 testified. This is grass-roots citizen participation.

Further, those testifying were not on the attack. Exactly the opposite is true. Gaming operators are the ones under attack. They were testifying in their own defense!

Your biased headline, more accurately, could have said, "Gaming operators oppose machine monitoring," or "Gaming operators under attack," or "Bureaucrat lobby attacks small business."

Is this electronic monitoring system the precursor to having every cash register in the state monitored after the governor gets his sales tax?

I would like to correct a couple of other errors in the AP report: The reporter said a similar bill in 1995 "was killed amid strong opposition from the gambling industry." False. The Montana Tavern Association and the Gaming Industry Association of Montana, representing most of the state's gaming operators, supported the 1995 bill. It was the house of Representative that opposed and killed the bill.

The report erroneously said gaming tax rates are 15 percent of net revenue. Wrong. Taxes are 15 percent of gross revenue and we hope to high heaven the reporter knows there's a difference — a huge difference.

Please try to introduce some objectivity and accuracy into your coverage of gaming issues. They are far too important to do otherwise.

Leonard J. Readicker
5300 Saddlerock Road
Butte

Golf course only for the privileged

my 70th birthday and living on a fixed income. I have spent my entire life in Anaconda and Butte.

I am also 100 percent in favor of the course, but I would suggest the Old Works Golf Course Board should take a poll from the area golfers and set their rates to attract as many of them as possible. I am sure they will not survive without their support.

I do not mind paying a reasonable green fee, and since I own my own golf cart I would not mind paying a trail fee to use my own cart, instead of having to rent one.

In closing, maybe Peter should look in the mirror if he wants to see a real nitwit.

Arnold E. Barnett
1201 W. Copper
Butte

Campaign kitty for the cats?

After hearing so much about President Clinton's Lincoln Room hospitality for fat cat donors who gave millions for the opportunity to be listened to by the president, do you think that White House cat Socks is jealous?

Can Socks offer Garfield (who is definitely a fat cat) access to the White House?

Would it be discrimination if Socks' request was "defurred?"

Miriam Ausmus
800 S. Washington
Dillon

Homosexuals seek victim status

Mr. Hudson's guided missive (pun intended) chastising me for my remarks on homosexual (sodomitic) acts deserves rebuttal:

Mr. Hudson, my opinion is that no one is born a sodomite nor comes equipped with the personalities (the self) of homosexuality. Sodomy and homosexual "self'" are learned behaviors which result in consensual sodomitic acts. Sodomy is CHOICE!

It seems, however, homosexuals wish to be seen as victims, weak and powerless to make moral choices like sodomitic abstinence. Because America is the land of opportunity victimhood, everyone wants to be a victim. Why? Because there is a payoff: If you can claim victimhood and make it stick, you can never be blamed nor be responsible for your actions.

moral truths and natural laws. Theirs are not.

Among other things: I think what Mr. Waring is saying in his support of affirmative action (quotas) and against HB 303 (0RS, Feb. 9) is that "No discrimination (HB 303) is discrimination." Go figure!

May the force be with you! No more Dan Rather's hip "Kenneth What's the frequency?"

Robert D. Geach Sr.
2708 Harvard
Butte

Sportsmen may lose their rights

Senate Bill 132 by Sen. Ken Mesaros would require sportsmen to ask permission to cross private land. I agree with that. Is his next bill, however, going to be even more stringent? I refer to the Feb. 2 Standard article, in which a lady said recreationists should even ask for permission before going onto public parcels of land.

Senate Bill 132 causes a major rift between landowners and hunters (recreationists). Sen. Mesaro should introduce a bill that would help sportsmen and landowners. For example: Let's consider landowners who allow no access at all and privatize wildlife by letting only a few paid persons hunt for bulls only! This creates serious problems with their fellow landowners, because the FWP is not able to manage the herds properly. As the herds grow larger, they cause problems for all concerned.

Sportsmen, this is not an issue of "Republican" versus "Democrat." It's an elk management problem, out of control, that concerns landowners, sportsmen, recreationists and the public. Back to the lady's comment. She is quoted "This is really a matter of have-nots wanting what the haves have." That remark really bothers me!

People lease public land for personal and financial gain, and there's nothing wrong with cattlemen and women making a living. However, if they don't want to keep public land open to all the public — if they don't appreciate public qualities of that land — they should give it up. Others will gladly take their leases.

Public lands are for all people — for "we the people."

Sportsmen in Southwestern Montana better keep tabs on pending legislative bills, because your huntable lands are in danger of being limited, even eliminated

■ Today in Sports on Page B1: A world-class athlete excels in two

The MONTANA STAN

50 cents

Railroad president critical of proposal

By Betsy Cohen
of The Montana Standard

The ARCO and county proposed recreation park at the old landfill dump is not about quicker removal of the Colorado tailings from along Silver Bow Creek.

"It's about money," said Mike Green at Tuesday's public information meeting on the proposal, which includes hauling the Colorado tailings to the Clark tailings and capping the area to create a softball park.

Green is the president of Western Montana railroad which had, until recently, contracted with ARCO to haul the Colorado tailings to the Opportunity ponds.

"It's not a capacity issue," he told more than 80 people at the meeting at the Boulevard Fire Hall.

"We have the capacity to run more trains, longer trains and more frequent trains."

Green's comment went with little discussion after County Commissioner Charlie O'Leary confirmed that ARCO's agreement with the railroad was a contractual issue.

The meeting, which was chaired by commissioners O'Leary and Bill Melvin, was a forum for Butte-Silver Bow residents to voice concerns and questions about the park proposal.

County officials, state environmental protection personnel and ARCO representatives were on hand to answer the public's questions.

The concern for monitoring the toxins in the dust from the tailings-laden trucks brought Cynthia Cromm, a Little Basin Creek resident to the meeting.

Others wanted to know about the hauling schedule.

"Who has the right of way?" asked Joe Collins. "The trucks or the residents? There's kids getting off of buses, families who drive that road, three,

See CRITICAL / Back Page

Invasion of priva

Neighbor worries park plan will steal his

By Betsy Cohen
of The Montana Standard

Jim Fullmer isn't crazy about having a new ballpark in his neighborhood.

The fact that it would sit on top of a Superfund site is the least of his worries.

Fullmer, 78, moved up the sparsely populated hill on South Montana Street nearly 35 years ago to find some peace and quiet.

Now he thinks his solitude will be taken away, if county commissioners approve a proposal for a 45-acre recreational park at the old county landfill and the adjacent Clark Tailings site.

"Privacy is one of my primary concerns," Fullmer said Tuesday afternoon as he looked out his window at the proposed site, across from his home.

"I object to the fact that I have to give that up in the name of development," he said. "My privacy will be completely interrupted and violated by the parking across the street. Can you imagine six softball games at once and all those people?"

But Fullmer and his neighbors are used to dealing with controversy when it comes to the Clark Tailings adjacent to the South Montana Street neighborhood.

In 1986, the area's residents filed a $26 million class-action suit against ARCO.

Their complaint: Westerly winds were blowing toxic dust from the uncapped mine tailings into their homes and into their lungs.

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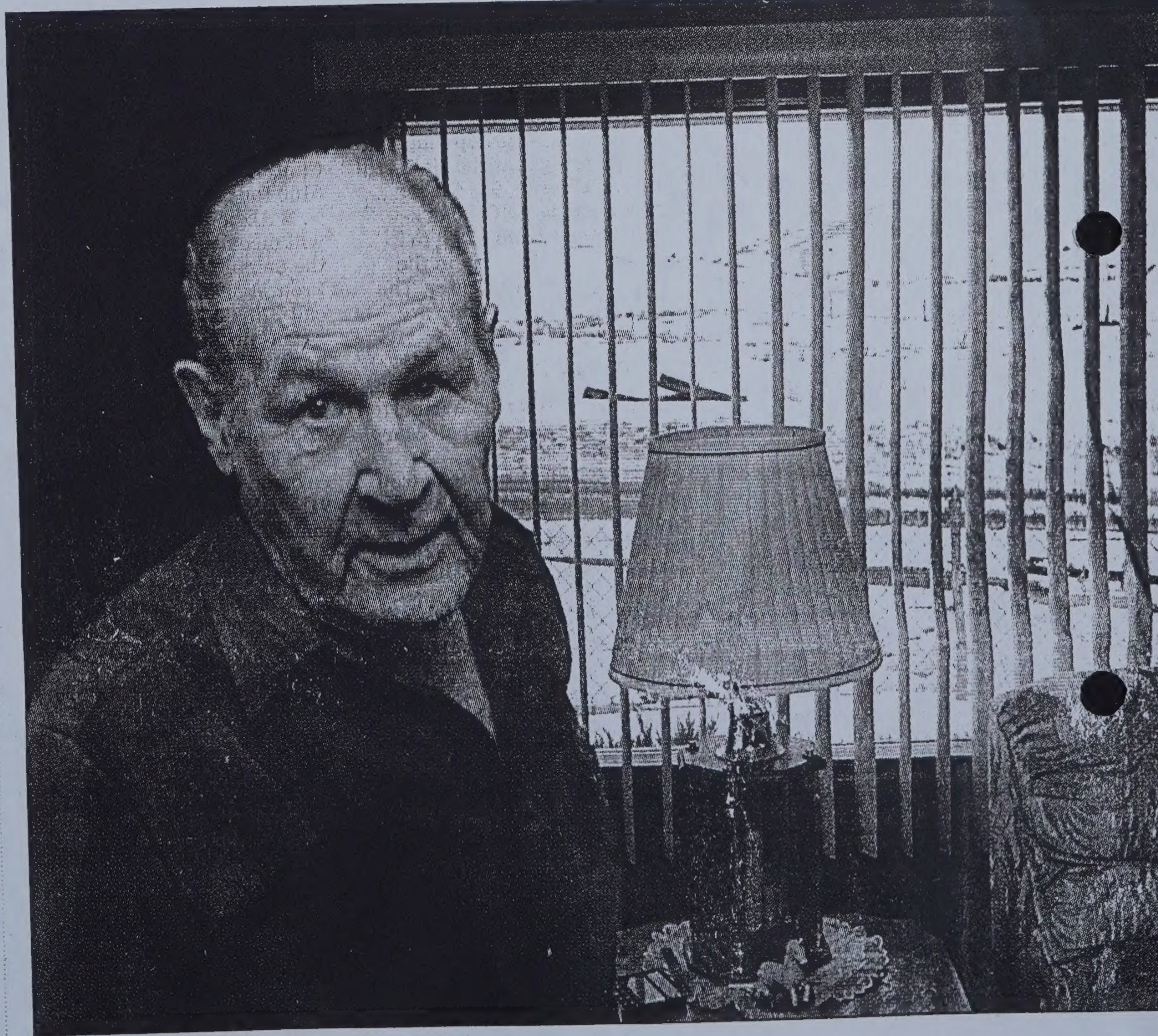

JIM FULLMER, pictured in his home on South Montana Street Tuesday, says the view from his living room overlo
45-acre recreation park suggested by Arco and the Butte-Silver Bow planning department. And Fullmer is not happ

B1: A world-class athlete excels in two speed skating categories

NTANA STANDARD
Wednesday, February 12, 1997

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Their complaint: Westerly winds were blowing toxic dust from the uncapped mine tailings into their homes and into their lungs.

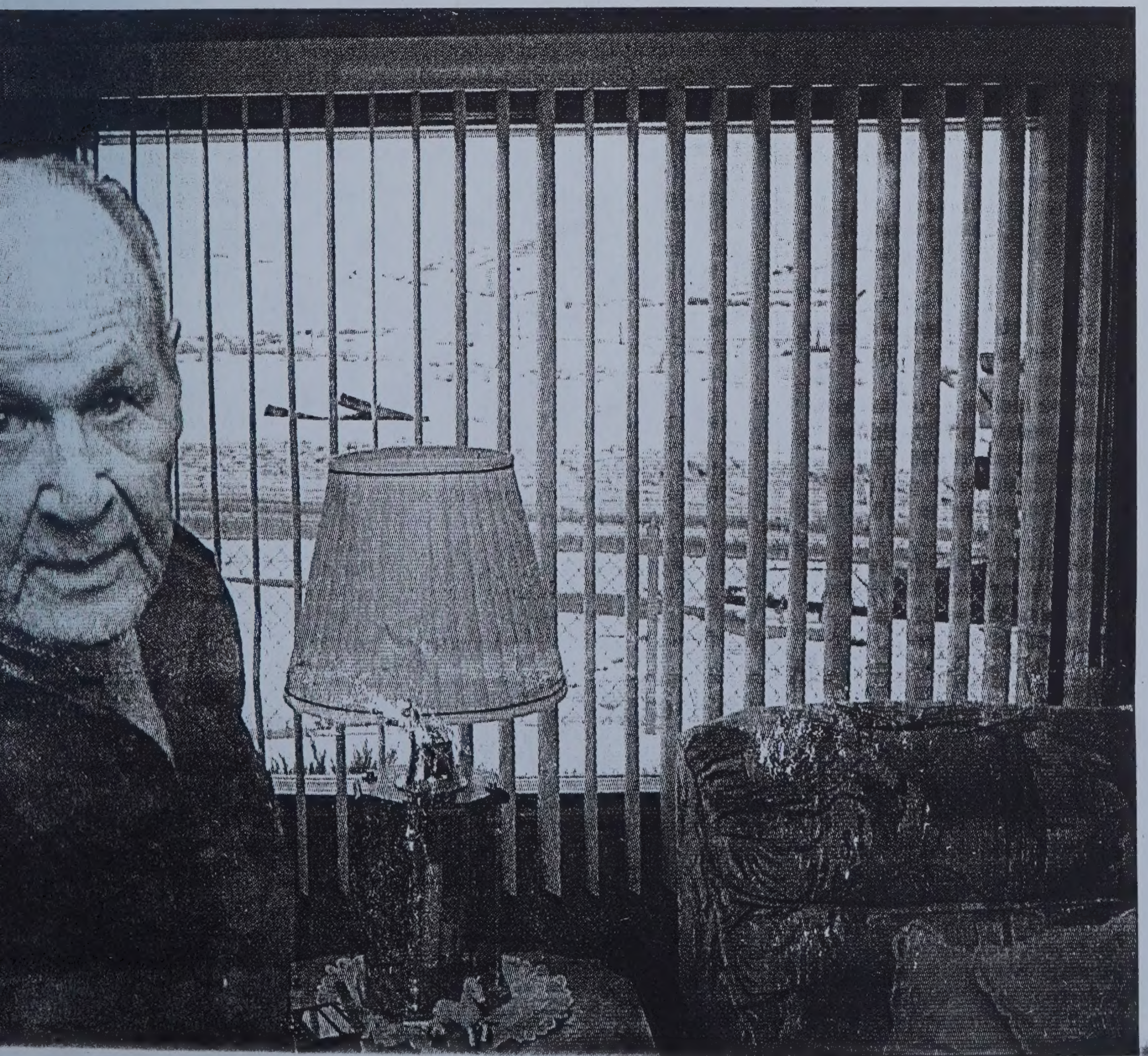
"There were times when it blew so hard you couldn't see your neighbor next door because of the dust," said Charles Easterday, who moved out of neighborhood after the suit was settled for $250,000 in 1989. (ARCO capped the tailings as part of the settlement, and a majority of homeowners took their settlement money and moved to a different neighborhood.)

"I took dust samplings from my windows at that time and they had so much arsenic in them it read as high as the tailings," Easterday said.

"But I feel as long as the area is capped correctly, I don't think anyone's going to eat it (toxic dust)."

Easterday said he has no problem with the proposal to move the Colorado Tailings

See PRIVACY / Back Page



ACLU sues prison over conditions

▨ Similar private facility in Texas houses Montana inmates

By Kathleen McLaughlin
of The Standard State Bureau

HELENA — The private prison company that houses Montana inmates in Texas and wants to build a prison near Deer Lodge is being sued by a Colorado civil rights group over conditions at one of its jails.

The Colorado branch of the American Civil Liberties Union filed suit in federal court against the Bobby Ross Group Inc., which runs private prisons across the country and wants to build a 500-bed jail in this state. The suit, a continuation of other ACLU actions against private Texas prisons, alleges a Ross-run jail in Karnes County, Texas, is mistreating 500 Colorado inmates.

ROSS SAID the lawsuit is without merit, because the Karnes County Correctional Center has passed dozens of inspections from state, federal and local agencies since it opened in 1995.

"I think the ACLU is probably just looking for more work," Ross said in a telephone interview Tuesday.

Ross also runs the Dickens County Correctional Center in Spur, Texas, which Montana pays $3.6 million a year to house 250 inmates.

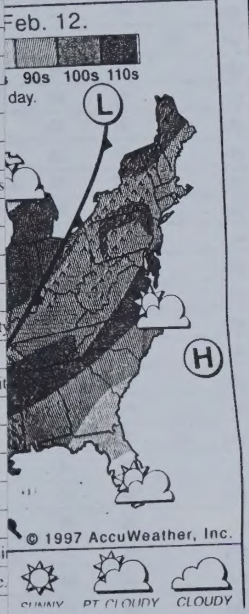
While the Colorado suit doesn't deal directly with Montana inmates, many of its concerns — such as medical and dental care — mirror problems found in the Dickens County jail by a Montana Corrections Department audit. Thus, it opens the potential for a lawsuit against Montana over out-of-state prison housing arrangements.

THE MONTANA audit showed prisoners being

numerous over the mountains. Highs 35 to 45. Lows 20s.

East of the Divide

Friday, few mountain snow showers. Gusty winds. Highs 35 to 45. Lows 15 to 25. Saturday, mostly dry. Highs 20s to 40s. Lows teens to 20s. Sunday, a few snow showers mainly over the mountains. Gusty winds. Highs 30s to 40s. Lows 5 to 25.



ties — variations on a

ical phenomenon believed to lurk at the hearts of black holes — could not exist.

Now it seems they could — maybe.

The New York Times reports Wednesday that during a visit to Caltech last week, Hawking conceded defeat "on a technicality" to fellow physicists John P. Preskill and Kip S. Thorne. The stake was 100 pounds (about $164), plus clothing "embroidered with a suitable concessionary message."

HAWKING, Preskill and Thorne are leaders in the study of relativity as applied to cosmology, and they meet often at scientific symposiums, discussing conjectures about time machines, wormholes, the origin of the universe and other ques-

larity is a mathematical point at which space and time are infinitely distorted, where matter is infinitely dense, and where the rules of relativistic physics and quantum mechanics break down.

Singularities are believed to lurk at the center of black holes, which conceal their existence from the outer world. A naked singularity would be a singularity bereft of a concealing black-hole shell, and therefore visible, in principle, to outside observers.

Although neither light nor any other kind of signal can escape from them, a half-dozen or so black holes have been revealed by their gravitational effects of nearby stars. Black holes also have betrayed their presence by sucking matter

University of Texas in

Choptuik concluded from his mathematical analysis that there could be special circumstances in which a naked singularity might be created from a collapsing black hole, either by nature or perhaps even by some advanced civilization.

THE CHANCE of this happening, Choptuik told the Times, would be comparable to standing a pencil upright on its sharpened tip — improbable, yet theoretically possible.

Hawking declined to yield unequivocally — he made another bet with the Caltech physicists that although a very limited set of conditions had been found for creating naked singularities, no general conditions would be found.

Nicholas Burns said the request was conveyed to the Georgian Embassy in Washington and to the government in Tbilisi. Georgian officials also were told what charges the U.S. attorney's office intends to file against Geuorgui Makharadze, the No. 2-ranking official in the embassy, but Burns refused to publicly disclose them.

Fox News' WTTG-TV reported Tuesday night that U.S. Attorney Eric Holder's letter to the State Department said prosecutors have determined that the appropriate charge against Makharadze is involuntary manslaughter.

Privacy ...

Continued from Page A1

to the Clark Tailings, then cap the enlarged Clark Tailings area and the old landfill with clay and dirt.

"It makes sense," Easterday said. "Instead of spreading it all over the place, let's put it in one spot."

But to former South Montana Street resident Bob Bengston, the park proposal is a bad idea.

"When we lived up there our house tested worse than Love Canal for toxics," Bengston said. "It's a very contaminated area up there and I don't think 39 inches of topsoil is going to solve the problem because of erosion factors and leach-through," he said.

Bengston said he had "morning sickness," and his daughter had chronic ear infections, during the seven years his family lived near the Clark Tailings.

"There are real health considerations up there," he said. "It would be lovely to have a park there, but how pretty is a treeless park? Nothing's going to grow up there."

Prison ...

Continued from Page A1

lines for private prisons. Texas, which caught the cusp of the private prison boom, has jails that import inmates for profit from more than a dozen states.

"If private companies want to get into this business and states want to contract with private companies to perform a traditionally governmental service, I don't have a problem, provided their service is consistent with the (U.S.) Constitution," Black said.

If not, Black said, "They can body like the ACLU to call this jail sub-standard based on a walk through . . . and some inmate complaints ... that's just unfair."

Dickens County (Texas) Judge Woodie McArthur Jr. is head of the county government that owns the Bobby Ross jail holding Montana inmates. On learning of the Colorado suit, McArthur said he has faith in Ross' company.

McArthur said the county plans to invest $8 million to $10 million in the Dickens County jail to improve medical care and provide more room for treatment programs. Such improvements could protect the Dickens that of the Colorado ACLU.

McArthur defended Bobby Ross' jail management practices.

"If an operator wasn't taking care of business, we have ways to get out of our contract with them. They've got to do right," McArthur said. "We have no reason to even talk about replacing (the Bobby Ross Group)."

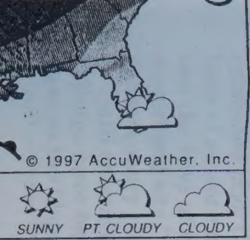
Mark Silverstein, legal director for the Colorado ACLU, said private prisons are not immune to the rules that govern jails run by state and local governments.

Ross agreed, but said the allegations are untrue and he'll fight the ACLU.

"They're used to fighting with state and county governments that just roll over," Ross said.

The Montana Legislature is expected to set a state policy on private prisons in the coming weeks. Bobby Ross is about two-thirds through negotiations with Powell County to build a 500-bed jail.

As in Texas, Ross' company would manage the prison, but it would be owned by the county, which would have discretion over operations. Montana corrections officials expect to place at least 500 inmates in private prisons during the coming years, due to overcrowding in state programs.



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If private companies want to get into this business and states want to contract with private companies to perform a traditionally governmental service, I don't have a problem, provided their service is consistent with the (U.S.) Constitution," Black said.

If not, Black said, "They can expect inmates to complain and they can expect lawsuits."

Ross responded, "For some-

learning of the Colorado suit, McArthur said he has faith in Ross' company.

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Long-distance ...

Continued from Page A1

nies who take over your long-distance service without your knowledge or consent."

Fisher said FCC rules prohibit switching service without a customer's authorization. But the federal agency has a loophole that lets a company switch a person's service if the customer does nothing within 14 days of being informed by the company, he said.

HB431 would close that gap by requiring a company to get electronic or written proof of a customer's approval for switching service, he noted.

Barbara Ranf of US West said her company received about 160 reports of slamming by long-distance firms last year in Montana and routinely switches customers back when they complain.

Critical ...

Continued from Page A1

four times a day — a baseball field for that amount of inconvenience doesn't calculate to me when we have a program in place to haul the stuff to opportunity already," he said.

In the current proposal plan, trucks would cross the intersections at Greenwood Avenue and Beeftrail Road every 90 seconds, 10 hours per day, six days per week.

"That's still open for negotiation," said Ron Bertram a representative from the U.S. Environmental Protection Agency.

"We can't skirt the issue that there will be some inconvenience."

The final decision on the proposed plan will be made February 26 at the county commissioners meeting.

For residents who want to voice their opposition or support of the park, county commissioners will hold a public hearing at 7:30 p.m. Wednesday February 19 in the council chambers in the courthouse.

Ballot ...

Continued from Page A1

for passage of a bill incorporating an inner-secrecy envelope idea that is sometimes used in smaller communities in mail-in elections.

The bill would develop a two-envelope method. An absentee voter would put their ballot into a plain, unmarked envelope, and then place that envelope inside a marked mailing envelope.

When the absentee ballot arrived in the mail, an election official would remove the plain, unmarked envelope from the mailing envelope and deposit it into a box containing other plain, unmarked envelopes containing absentee ballots.

"I really can't conceive of someone opposing it," Barrett said. "It's a simple, zero-cost item.

"This isn't something brand new to Montana. Certain elections can be held by mail and that calls for inner-secrecy ballots. It's not new law, but it's new to the absentee process."

However, Barrett also wants election officials to admit wrongdoing and wrap up the ordeal locally.

"This needs to be closed now in an appropriate and honorable manner," he said. "Let's resolve the issue here locally ... but more importantly, let's correct the deficiency in the system statewide so that we don't have to go through this again."

After Barrett complained to Sullivan about the ballot, she asked County Attorney Bob McCarthy to look into the election judge's actions.

McCarthy forwarded Sullivan's letter to the state's Criminal Investigation Bureau, which declined to pursue the matter because detectives are swamped with other cases.

State investigators also have refused to probe other Butte election woes, including election judges using white-out correction fluid on ballots.

In matters unrelated to Barrett's absentee ballot troubles, a citizen's group has formed and will likely file a court action soon in hopes of opening Butte's sealed November ballot boxes.

Linda Elich, a spokeswoman for Voters Opposed to Tampering with Elections (VOTE), said the group has raised a little more than half of the $3,000 needed to go to court.

Also, the group has collected hundreds of signatures and needs to turn those in to lawyers by Thursday.

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▩ See Page BI for the story about the interviews with B

2-11-1997

The MONTANA ST

50 cents

Plan puts bad soil 39 inches under

By Betsy Cohen
of The Montana Standard

Contaminated soil along Silver Bow Creek may soon have a new home — 39 inches below the feet of picnickers and ballplayers.

That's if county commissioners approve ARCO's plan to haul the polluted soil full of copper, zinc, arsenic and mercury to the Clark Tailings site.

The plan combines Butte-Silver Bow County's effort to close the old county landfill (adjacent to the Clark Tailings), and ARCO's mandate to clean up mining wastes it inherited from its 1977 purchase of Anaconda Minerals Co. property.

THE FINISHED product would be a 45-acre recreational park with softball and football fields. The commission will vote on the plan Feb. 26, after a two-week public comment period.

"It's an effort for the county to move forward with a combined plan that meets the laws of closure of the landfill, and the laws of closure of a Superfund site," said Jon Sesso, county planner.

Until recently, the Colorado Tailings have been hauled by train to the Opportunity Ponds 25 miles from Butte. The pro-

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Crying foul (ball)!

Park idea pe

By John Stucke
of The Montana Standard

A county-pitched plan to build several softball fields atop a mining waste Superfund site has sent a new Butte Copper Kings stadium proposal to the dugout.

Ted Tornow, general manager of the minor league club, said county and ARCO officials snubbed his idea to help build a multi-use stadium there for baseball, high school football and soccer games, and even an occasional outdoor concert.

Instead, county officials have embraced a plan to build eight new fields for softball and "Mighty Mite" football.

All they need is an OK from the public and county commissioners to let ARCO truck nearly one million tons of contaminated mine rock from the Colorado Tailings area, located along Interstate 90 west
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Until recently, the Colorado Tailings have been hauled by train to the Opportunity Ponds 25 miles from Butte. The proposed plan calls for trucking the waste to the Clark Tailings site, on the southwest edge of Butte.

There, the Colorado Tailings would be placed on top of the Clark Tailings.

In a process called "capping," the material will be sealed with, in order, 18 inches of clay, 3 inches of gravel, 12 inches of soil and 6 inches of vegetation (grass).

The key ingredient is the clay barrier which is designed to block water from mixing with the buried metals.

IF THE CAP is built right, it will allow the grass and soil layers to absorb ground water while allowing enough seepage to keep the clay layer moist, said Butch Gerbrandt, associate professor of environmental engineering at Montana Tech.

"This cap is a pretty standard design and seems adequate and appropriate for the site," Gerbrandt said.

"If it will keep the tailings dry and isolated and keep the ground water from infiltrating the metals, then it's a pretty

See BAD SOIL / Back Page

■ INSIDE

Daily Briefing **A2**

Area / State **A3**

LOU BROWN claps his hands as he leaves Los Angeles County Superior Court in Santa Mo
Monday. Also pictured are his wife, Juditha, middle, and Denise Brown, far right. A jury award
$12.5 million in the punitive phase of the O.J. Simpson civil trial.

Gaming industry's f

Jack Lynch, chief executive officer for Butte-Silver Bow, said just over a fifth of his government's annual budget comes from gambling taxes and he challenged lawmakers to find a replacement source of money if a public vote makes video gaming illegal.

By Bob Anez
of The Associated Press

HELENA — The gaming industry and their foes squared off Monday over a proposal to let Montanans decide whether to outlaw video gambling in the state.

Industry leaders said voters should not be asked to decide such an emotional issue that threatens the life of an important part of the economy. Representatives of local governments warned about the loss of millions of dollars in video gaming taxes

But gambling opponents argued the public should have the

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few studies have been done to show the impact in Montana.

Roger Scott said, "Gambling is a destructive force. Gambling is a scam. Gambling has nothing to offer but grief."

Rep. Duane Grimes, R-

tacting students' parents, she said.

Those objecting to the bill included Jack Lynch, chief executive officer for Butte-Silver Bow, and Alec Hansen from the Montana League of Cities and

officers.

Mark Staples of the Montana Tavern Association said the state's 1,600 casinos account for about 20,000 jobs in the state and $153 million a year in wages.

business owners, their families and employees that represent a vital part of government taxes.

"Do we really want to cut the throat of the sacred cow?" he said.

Bad soil ...

Continued from Page A1

standard design and seems adequate and appropriate for the site," Gerbrandt said.

"If it will keep the tailings dry and isolated and keep the ground water from infiltrating the metals, then it's a pretty good design."

But keeping the clay moist is a big concern, he said.

"Clay designs can dry out and crack. And the real worry then is the leach-through effect."

Both Sesso, and Sandy Stash, ARCO's Montana manager, believe the "cap" can safely protect human health and the environment.

"Copper and zinc are metals which occur naturally and are found in just about everything," Stash said. "They are not dangerous to human health. They are only dangerous to aquatic life when they mix with water."

"Yes, I'd let my kids play there," Gerbrandt said of the proposed park.

But not everyone is convinced that the cap would be safe.

"We are carefully looking at the proposal," said Jim Kuipers, a mining engineer and technical advisor for the Citizens' Technical Environmental Committee (CTEC).

"We have no long-term experience working with caps to know how well they will perform in the long run," he said. "There's no substitute for experience, and that's what's difficult here."

Capping, Kuipers said, has been used by the mining industry for less than 20 years.

"Caps do fail," he said. "This method is not treatment of the contaminated material, it's not cleanup — it's just relocation, and I'm not sure it's the answer."

The proposed plan will be discussed at three meetings in the coming week. The first is a neighborhood meeting led by county commissioners Bill Melvin and Charlie O'Leary at 7 p.m. tonight in the Boulevard Fire Hall on Franklin Street.

CTEC will hold a meeting at 7 p.m. Thursday, Feb. 13, at the Butte Community Center, 25 W. Front St. Ron Bertram, an Environmental Protection Agency official overseeing some of Butte's Superfund projects, will be on hand to discuss the plan.

County commissioners will hold a public hearing at 7:30 p.m. Wednesday, Feb. 19, in the council chambers in the courthouse.

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for the story about the interviews with BHS football coaching candidates

e MONTANA STANDARD

Tuesday, February 11, 1997

Crying foul (ball)!

Park idea peeves Kings

By John Stucke
of The Montana Standard

A county-pitched plan to build several softball fields atop a mining waste Su[illegible]fund site has sent a new Butte C[illegible]r Kings stadium proposal to the dugout.

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Instead, county officials have embraced a plan to build eight new fields for softball and "Mighty Mite" football.

All they need is an OK from the public and county commissioners to let ARCO truck nearly one million tons of contaminated mine rock from the Colorado Tailings area, located along Interstate 90 west of the Montana Street exit, and dump it onto another, nearby mine waste site.

After the hauling is done, ARCO cleanup crews would cap the enlarged Clark Tailings area and the old county dump with clay and dirt.

Then in 1998, a carpet of topsoil and grass would hide cleanup evidence as ARCO funds the new ballfields for the city's American Legion and children's baseball programs.

However, the plan has been criticized as a secret deal put on a fast-track approval schedule.

"As attractive as the proposal is, it is fatally flawed in one major way: There was not enough involvement of the public or the Butte Copper Kings Baseball Club in the development of the proposal," Tornow said in a letter county commis-

See KINGS / Back Page

Simpson must pay $25 million

SANTA MONICA, Calif. (AP) — conference.

▲40 ▼16 *

Records

▲ 54 in 1951

▼ -43 in 1981

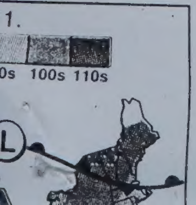
EXTENDED FORECAST:

West of the Divide

Thursday, scattered snow showers, more numerous over the mountains. Friday and [illegible]rday, scatt[illegible]d mountain snow showers, mainly Saturday.

East of the Divide

Thursday, scattered snow showers and gusty southwest winds. Friday through Saturday, a few snow showers mainly over the mountains. Strong gusty southwest winds along the e[illegible]lopes of the m[illegible]tains. Lows 10-25; highs 30 to 45.



Kings ...

Continued from Page A1

sioners received Monday. "In fact, our specific proposals were ignored and we were not invited into the project despite the fact that we asked key Butte-Silver Bow officials to talk further with us about our proposals.

"Apparently, only certain voices were allowed to be involved in the decisions that led to the plan that was unveiled."

Because Alumni Stadium is more than 30 years old and doesn't meet several professional baseball codes or Americans with Disabilities Act requirements, the Copper Kings want to hit a home run by having ARCO help foot the bill for a new stadium on a reclaimed Superfund park site.

However ARCO isn't interested in the Copper Kings' idea.

"This is a public project for children and the Butte community," said Sandy Stash, ARCO's manager of Montana operations. "Professional baseball is a for-profit business.

"I told (Tornow) that if he wants to combine forces with us, fine. But we're not the least bit interested in subsidizing businesses."

She said ARCO will help Butte build parks, trail systems and other community projects, but won't mix its Superfund cleanup requirements with profit-driven businesses.

"We will work with local government and local communities on these types of projects, but we draw the line at business welfare," she said. "I wish them well with their project ... and I'm sure that he can raise money for (a new stadium) just like any other business would have to."

Bill Fanning, president of the Copper Kings and general manager of the St. Paul (Minn.) Saints, said he just wants a seat at the planning table.

"We were encouraged to draw up some ideas and thought this would be a good spot for improvements," he said in a phone interview Monday. "We've committed here and we're not looking to move the team out of Butte. However, our stadium is below standards."

Tornow and other Copper Kings officials plan to tell commissioners that they at least want county planners to consider their proposal for a new stadium.

"We just want our day to be heard and see if there's public support," he said. "If not, at least we've had our say with the public."

There are no architectural designs for a new stadium and no cost estimates.

However, County Chief Executive Jack Lynch said that if ARCO won't support a new stadium plan, the issue is moot.

"We made the Copper Kings' interest known and it was rejected," Lynch said. "Ultimately, the final decision has to rest with the person who's going to pay."

He said although the baseball team's wishes can't be granted this time, the county remains a staunch supporter.

"There's no question that they have been welcomed and supported here," Lynch said. "But in this case, it's about closing the Clark area and the old landfill and having a place for kids to play. It's not about building a stadium for professional baseball."

County Planner Jon Sesso said Tornow's idea didn't solve several community needs, such as better ballparks for Babe Ruth baseball leagues.

"So far as the absence of a Copper Kings facility there, I'd have to say we're pretty committed to the facility at Montana Tech. We feel we've made some significant improvements."

He ticked off a list, including better lighting, that the county has helped with, and said the park proposal would eliminate scheduling conflicts between the American Legion and Copper Kings teams, which both use Alumni Stadium. It also would lead to better field conditions.

"Frankly, we've got a lot of things on our wish list that are more critical than another minor league baseball stadium," Sesso said. "I'm sorry (Tornow) feels his input wasn't listened to, because it's not necessarily a bad idea. But realize that he's looking out for his interests and I think we're trying to look out for everyone's interest. I've had a lot of Babe Ruth dads and moms say 'We want these new fields ...' "

Tornow said the park probably would have enough room for at least three baseball fields along with a new multi-use stadium, parking and a driving range for golfers.

And the rent the Copper Kings would pay to play in a new stadium would offset park maintenance costs and fatten the county budget.

"I don't expect to play in a Taj Mahal for free," he said. "This could be a facility that everybody in southwestern Montana could enjoy, and be another venue for Butte-Silver Bow to make money. And it wouldn't be just a Copper Kings stadium, it would be for lots of things."

Simpson ...

Continued from Page A1

through, are being essentially a racist themselves," said the white man in his 20s.

Unlike the liability verdict, the decision on punitive damages was not unanimous. The only person with black ancestry on the jury, a Jamaican-born man who is half-Asian, was the lone vote against punitive dam-

Simpson about the verdict, and asked for the bar television at the Knollwood Country Club in Granada Hills to be turned up.

Meantime, the courtroom was hushed and there were none of the outbursts that marked last week's verdict. Fred Goldman, the victim's father who had championed the civil court battle against Simpson, sat silently wiping his brow. His wife, Patti, and daughter, Kim, showed little emotion.

It took the jury five hours over two days to arrive at the punishment amount, ignoring the portrayal of Simpson as a tapped-out pariah and siding with a plaintiffs' lawyer who urged jurors to "Send a message . . . you can't kill two people and get away with it."

The attorneys never asked for a specific amount in punitive damages but said it should be enough to hurt Simpson and to force the football great to relin-

wrong."

Under California law, any punitive award is supposed to bear some resemblance to the defendant's financial state: It's supposed to hurt him but not destroy him.

Before the plaintiffs can claim their money, the judge must decide whether the awards are reasonable, or inflated by irrational passions. He can pare them down if he chooses.

Simpson also could appeal

▪ Butte, Anaconda area swimmers head for state finals . . . .

2-6-1997

The MONTANA STAN

50 cents

New park idea emerges

County planner suggests location over Superfund site

By Betsy Cohen
of The Montana Standard

Butte-Silver Bow citizens: Your opinion on a Superfund-inspired park proposed by ARCO and county officials is needed.

County Planner Jon Sesso proposed a 45-acre recreational park to county commissioners Wednesday night. The proposal, if built, would be on the combined old county dump and Clark Tailings property near St. Patrick's cemetery.

The plan was warmly received by county commissioners at Wednesday's regularly scheduled meeting after state and federal officials endorsed the idea contingent on a two-week public comment period.

The proposal recommends moving Colorado tailings along Butte-Silver Bow Creek to the Clark tailings area and capping the heavy metals under a clay and soil seal to create the second largest park in the county.

If approved by commissioners, the park will include six softball fields, a golf driving range, and two "Mighty Mite" football fields. An amphitheater would be built later.

The proposal also recommends that the Colorado tailings be hauled in 35- to 50-ton trucks across the Montana Western railroad track, through the Montana Pole and Treatment Plant Superfund site across Greenwood Avenue and Beeftrail Road to the site.

Sesso said the huge trucks would be crossing public roads every 90 seconds, 10 hours per day, six days per week.

The tailings, which are now hauled by train to the five-square mile Opportunity Ponds site near Anaconda, contain copper, zinc and mercury. The proposal would trim the 50-mile round trip to three miles, cut nearly two years off of the construction schedule and probably save ARCO money.

Nearly 400,000 cubic yards have already been transplanted said Sandy Stash, ARCO's Montana manager. But more than one million cubic yards remain.

"The incentive to move the (Colorado) tailings to the Clark tailing site is not for cost measures, but for time measures", Stash said on Monday.

Under the current plan, the removal of the tailings will take two to three years, she said.

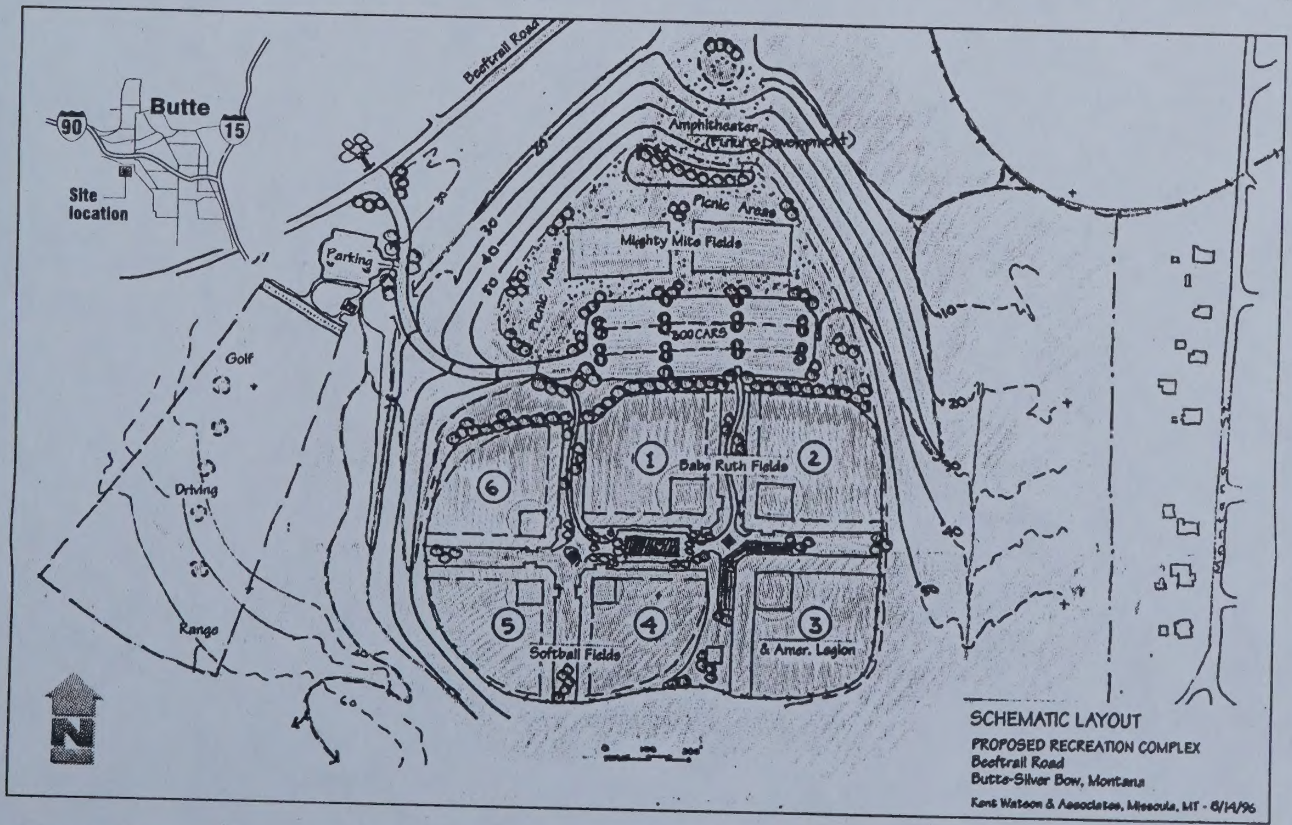
"It's like watching paint dry," Stash added.

However, if ARCO cleanup crews use trucks, it will take approximately a year and a half to transport the mining wastes, cap

See PARK IDEA / Back Page

Here's a schedule of public meetings, comment periods and decision deadlines regarding the closure of the old Butte-Silver Bow Landfill and Clark Tailings Area — and the proposed hauling of the Colorado tailings to be mixed with the Clark tailings and capped.

- *Feb. 5 — Public comment on the proposed project starts. It lasts until Feb. 21. Documents are available for review through the Butte-Silver Bow planner's office.*
- *Feb. 11 — Neighborhood meeting in the affected area. Commissioners Bill Melvin and Tom O'Leary will lead the meetings at 7 p.m. in the Boulevard Fire hall on Franklin Street.*
- *Feb. 19 — Public hearing in front of the Butte-Silver Bow Council of Commissioners at 7:30 p.m. in the courthouse council chambers.*
- *Feb. 21 — Public comment period ends. Officials from the Montana Dept. of Environmental Quality and the U.S. Environmental Protection Agency review public comments.*
- *March 3 — State and federal officials make final decision on plan.*
- *March through November — Transfer of the Colorado tailings to the Clark tailings area starts.*
- *March 1998 through November 1998 — Completion of Colorado tailings is finished, and construction of baseball and football fields starts, along with a public driving range for golfers and a 300-space parking lot.*
- *September 1998 — Target date for opening the recreation areas.*



THE PROPOSED recreation area would be built at the old county landfill and the Clark Mill Tailings near St. Patrick Cemetery on South Montana Street.

Jury must decide what's left to punish O.J.

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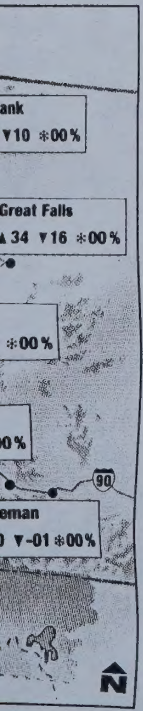


Yesterday
▲23 ▼-13 ✻.00"

Last Year
▲45 ▼1 ✻.00"

Records
▲57 in 1934
▼-44 in 1982

EXTENDED FORECAST:

■ West of the Divide

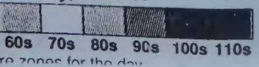
Saturday, dry with some late night and early morning valley fog. Highs 25 to 35. Lows teens. Sunday, chance of showers mainly south; mostly dry north. Highs 30s. Lows teens. Monday, scattered showers. Highs 20s to 30s.

■ East of the Divide

Saturday, dry and mild. Highs 35 to 45. Lows 0 to 25. Sunday, few showers over southern mountains otherwise mostly dry. Highs 30s to 40s. Lows 5 to 25. Monday, scattered showers. Highs 20s to 30s. Lows 5 to 15.

ast

ursday, Feb. 6.



Politicians, logging firms scorned by environmentalists

EUREKA, Calif. (AP) — A plan to swap $380 million in cash or public property for a grove of ancient redwood trees drew hisses and catcalls Wednesday at a raucous public hearing just miles from the edge of the disputed forest.

Environmentalists and their supporters denounced the proposal, brokered by U.S. Sen. Dianne Feinstein, D-Calif., that would shift dozens of state and federal properties to Pacific Lumber Co. and its corporate parent, Texas-based Maxxam Corp.

In return, some 7,500 acres of Humboldt County forest, owned mostly by Pacific Lumber, would be turned into a public preserve, including 3,000 acres of old-growth redwoods in the Headwaters Forest.

On Tuesday, company officials said the properties offered by the state were unacceptable, and said they wanted cash instead. However, Pacific Lumber and Maxxam Corp., stopped short of saying the tentative agreement was dead.

The properties, valued at more than $130 million, include vacant pieces of agricultural land, an abandoned rock quarry, a 140-acre conservation camp, a state food testing lab and two Department of Motor Vehicles offices.

State Resources Secretary Douglas Wheeler said the timber company officials' decision was "regrettable but will not deter the efforts . . . of the state of California to acquire and permanently protect Headwaters Forest in the public domain for generations to come."

The plan requires congressional and legislative approval. Wednesday's hearing was one in a series called by the government to take public comment. It was the only hearing held near the disputed property.

Inside, whistles and catcalls greeted the government representatives and echoed in the hall each time the name of Charles Hurwitz, chief executive officer of Maxxam, was mentioned.

Outside, several dozen protesters in denim and tie-dyed clothes chanted and waved signs. The largest, a 70-square-foot pink banner with red letters, said simply, "Jail Hurwitz."

"This (deal) means the complete loss of four unprotected groves, causing the complete extinction of the marbled murrelet in California," said Robert Parker of Arcata, who opposes the plan.

The marbled murrelet is a rare seabird that nests in old forests. Environmentalists believe Pacific Lumber's logging practices threaten the bird as well as other fish and wildlife habitats.

Many speakers suggested that the entire 60,000-acre Headwaters Forest be turned into a preserve, not just the 7,500 acres covered in the proposal.

Phil Carroll, a spokesman [illegible] the U.S. Fish and Wildlife Service, said the government would consider that possibility.

"Our feeling is that the more public comment on this, the better," Carroll said.

Supporters of the lumber company say the proposal strikes a fair balance between environmental protection and economic development, and assures employment for 1,600 timber workers.

Park idea ...

Continued from Page A1

the site and build ballfields.

Plans for reclaiming the 80-acre Colorado site have not been addressed said Ron Bertram, remedial project manager for the U.S. Environmental Protection Agency.

But the site, which will have pits more than 10 feet deep from tailings removal will probably host a wetlands area and reroute captured stormwater, he said.

Although ARCO, state, federal and county officials hailed the plan as a cure-all for lingering Colorado cleanup problems, one critic claimed the project serves ulterior motives.

"I really think the motivation here is to save ARCO dollars," said John Ray a member of the Citizen's Technical Environmental Committee. "You can't argue that it's in the interest of public health and safety."

Ray was interviewed before Wednesday's meeting.

"In terms of public health and safety, lets put the tailings where the pubic won't be ... not under ballfields where children play."

According to Stash, ARCO would save about $1 million hauling the tailings by truck, however Bertram said ARCO hasn't provided EPA with an accounting of the different project costs.

"The real advantage here is not about money,' Stash added. "It's that we have agreed to work on the development of the ballfields. Any savings will be eaten up by the project."

Engineer ...

Continued from Page A1

information they need. But Stash

some of the commissioners and members of the public at a commission meeting Tuesday night for failing to talk with the commission about his plans to fire

Members of the Anaconda-Deer Lodge Planning Board have wondered aloud why Stetzner did not ask the board how Elias was performing. And property asses-

us. But we do think there are some structural issues, a lack of clarity within the planning organization on who's doing what. [There also] is an accountability

UNITED STATES ENVIRONMENTAL PROTECTION
REGION VIII, MONTANA OFFICE
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096
HELENA, MONTANA 59626-0096

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MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

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APR 21 1997
Department of
Environmental Quality
Remediation Division

Copy for N. Marsh
P. Crowley
(PCD)

Ref: 8MO

April 14, 1997

John W. Ray
915 West Galena Street
Butte, Montana 59701

Dear John:

John Wardell asked that I respond to your letter of March 9, 1997 regarding the public participation process for the disposal of Lower Area One wastes at the Clark Tailings site. I have reviewed a copy of Mr. Simonich's response to your letter. EPA believes that his response to your letter is exactly as we would respond. Therefore, our response will address your comments and concerns without repeating what is already well stated in Mr. Simonich's letter.

Your letter states that you and the public in general believed that the decision on the Clark Tailings proposal had been made prior to the public participation process and that this led to the public impression that their input would not have any chance of impacting the agencies' decisions. As Mr. Simonich's letter states very well, the approval of the Clark Tailings proposal was not made until public review and comment had been completed. Certainly, when EPA proposes a remedial or removal action, EPA must believe that the proposal has merit or EPA would not expend the time, effort, and cost of going through a public review process. However, if during the public participation process, the public, local government, potentially responsible parties or any other party identifies substantial shortcomings of a proposal under consideration that cannot be adequately mitigated through changes in the proposal, EPA will not approve such a proposal. Many of the concerns and comments raised during the public participation process for the proposed Clark Tailings action had merit and great value, and EPA, in cooperation with the BSB county government and MDEQ, were able through revisions to the plan to adequately address these concerns and comments. As an example, an air monitoring program was required in response to public comment. EPA believes that public participation had a very significant impact on how this project was finally approved and how it will be conducted.

You expressed your belief that the public hearings conducted by the BSB County Council of Commissioners were not conducive to public input and that EPA and MDEQ should conduct their own public hearings. A decision was made in March 1995 by EPA and MDEQ to integrate the closure of the Old Butte Silver Bow

Landfill and the Clark Tailings area. As a result of the integrated closure and the subsequent proposal to dispose of LAO wastes at the Clark Tailings site, EPA, MDEQ, and BSB County became jointly responsible for the activities necessary to carry out the proposal. The parties involved discussed the manner in which the public comment process should be conducted and decided that it would be more effective and less confusing to the public if the public participation process was conducted jointly by all parties. Although you believe this was a mistake, EPA disagrees and believes that the public participation process would have been very confusing if BSB County, State Solid Waste and EPA would have each conducted their public participation processes independently of each other.

EPA is in agreement with your comment and suggestion regarding the length of the comment period. EPA will allow a full 30 days for comment on all future proposed response actions.

In regard to your impression that we did not listen as you expected and your feeling that your input was not considered, I personally have searched my memory in an attempt to identify how, when, and where I may have contributed to your arriving at these impressions and feelings. I can only say that there was never any effort on my part to convey those impressions or feelings to you as it would certainly not serve my purpose or be in my interest to do so. EPA appreciates your effort in providing these comments and suggestions.

Sincerely,

Ronald A. Bertram

Ronald A. Bertram
Environmental Scientist

cc: John F. Wardell, 8MO
Mark A. Simonich, DEQ
Bob Fox, 8MO
Henry Elsen, 8MO-RC
Pam Hillery, 8MO

[illegible]

Remediation
Pat Crowley

DEPARTMENT OF ENVIRONMENTAL QUALITY

MARC RACICOT, GOVERNOR

STATE OF MONTANA

(406) 444-2544

PO BOX 200901
HELENA, MONTANA 59620-0901

April 8, 1997

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Department of
Environmental Quality
Remediation Division

John W. Ray
915 West Galena Street
Butte, Montana 59701

Dear John:

This responds to your letter of March 9, 1997, in which you expressed concerns about public involvement in the decision-making process for the disposal of Lower Area One wastes at the Clark Tailings closure site. I appreciate your communicating to me both your concerns and your recommendations for improving our decision-making process. While we believe that the agencies received substantial and adequate public comment on the proposed project prior to making their decisions, your letter indicates areas where we may be able to improve our efforts.

Your first concern was that the agencies' decisions had been made prior to receiving public input. I have to disagree with your interpretation. Although both agencies worked closely with ARCO, Butte-Silver Bow and their contractors to develop the Clark Tailings/Old Butte Landfill Corrective Measures Plan and Lower Area One waste haul plan so that they would meet CERCLA and RCRA protectiveness standards, no decision was made as to whether those plans would be approved until after full public review and comment had been completed. Since many of the key elements of public concern were associated with issues such as final land use of the closure area, public safety during haul of the LAO wastes, inconvenience to local neighborhoods because of construction traffic, etc., it was imperative to get public input prior to making a decision. We thought that we had communicated that fact clearly, but maybe we should have stated it more forcefully. We did not expect that statements by our technical personnel that the technical aspects of the closure and haul plans met required protectiveness standards would be interpreted to mean that the agencies had already decided to approve the actions. The critical decision element regarding the public's support of the proposed project and concern over implementing the project was not known until after the public comment period.

You raised concern over our decision to combine the agency public review process into the Butte-Silver Bow public hearing process. Our intent was to avoid confusion and save time by combining all elements of the project into a single public review and comment process. The

"AN EQUAL OPPORTUNITY EMPLOYER"

period for written comments was, after the extension, over three weeks long, although less than 30 days. Two informational meetings and two public hearings for formal testimony were conducted during the comment period. A responsiveness summary addressing all public comments was prepared prior to agency decisions. Although the public comment process was somewhat expedited to accommodate Butte-Silver Bow's and ARCO's desire to begin haul and construction activities early this spring, we believe it to have been a full and substantive process. Considerable support of the proposed project was received during the comment period and very little opposition noted. I understand that technical comments received from the Butte-Silver Bow Board of Health and from CTEC were adequately addressed by revisions in the project plans required by the agencies. I can assure you that the agencies gave full consideration to all comments received and that decisions were not made prior to review of those comments. In no manner did the agencies "transfer to Butte-Silver Bow local government" the decision-making authority for these actions. We did not believe that we let that impression be made and would have corrected that misconception had we been aware it existed.

DEQ and EPA are always under pressure to expedite cleanup actions within and around Butte. We make every effort we can to speed up the process. In this case, the public review period, which was not mandated by either CERCLA or RCRA for this particular decision, was shortened a little from the typical 30-day review period. As I indicated earlier, at the same time the process was augmented by having additional public informational meetings and hearings. We believed that the proposed review process was adequate to support our decision-making needs. The level of interest shown and the number of comments received confirmed as much. And after the decision was made to proceed, with modifications generated by the public comments, the actions have been able to be started early this spring.

I am distressed by your closing comment that in this instance you got the impression that DEQ was not listening to your comments. We make significant efforts to listen to and consider everyone's comments and hope that no one will go away from our public comment process thinking that he or she has not been heard. I appreciate your expressing your concerns to me and my staff. We will work harder in the future to make sure that you have been heard as much as you would like to be.

Sincerely,

Mark Simonich

MARK A. SIMONICH
Director

cc: John Wardell, USEPA

By Certified Mail
P552 349 241

RECEIVED
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DEQ

March 9, 1997

To: John Wardell, Director, Montana-EPA and Mark Simonich, Director, MDE

CC: Bob Fox, EPA and Pam Hillery, EPA

From: John W. Ray, Member-CTEC Board of Directors
915 West Galena St.
Butte, Montana 59701

John W Ray

RECEIVED
MAR 2 6 1997
Department of
Environmental Quality
Remediation Division

RE: Clark Tailings Decision Making Process

If public involvement in Superfund decision making is to mean anything substantial, public participation must be potentially efficacious. The public must feel that its input has some chance of impacting a decision. If the public feels that decisions open for public input have already been made, public confidence in the process is substantially lessened. The public asks itself: If decisions are already made, why should I bother to offer my opinion at public meetings? The public participation process in Superfund decision making must be more than legally mandated theater.

Unfortunately, the public participation process in the Clark Tailings decision was seriously flawed. Please consider:

(1) The assumption behind holding a public comment period is that the agency decision makers listen to all input and **after** receiving this input make a decision protective of human health and the environment under the law. It was obvious in the whole Clark Tailings decision process that a decision had been made **prior** to public input and that agency officials attended public meetings to promote an already done deal. For example, at the Butte-Silver Bow Council of Commissioners public hearing of February 19, 1997, the MDEQ representative, Mr. Crowley, and the EPA representative, Mr. Bertram, both acted as boosters of the proposed plan of action that was still **supposedly under consideration.** Neither individual gave any indication that they were listening to the public or that they valued public input. Rather, they seemed only interested in **defending** a plan that was supposedly still under consideration. It makes a mockery of the public input process when citizens are asked to comment on a decision that has already been made and that they cannot possibly impact.

(2) It was not conducive to public input to have the EPA and MDEQ public hearings as part of the BSB Council's public hearing. Many citizens do not feel comfortable at Council meetings where no pretense is made of suspending judgment until all the facts are presented. In the case of the

Clark Tailings decision, it was obvious from the start that the BSB Planning Department agreed with the plan and that the Council would go along with the Planning Department. At BSB Council meetings it is not uncommon for either the Chief Executive or members of the Council to argue with those testifying. Many citizens do not testify because they do not want to be placed in this adversary situation. Also, comments at BSB Council meetings are limited to three minutes. The issue of the Clark Tailings was so complex that three minutes was an inadequate period of time. EPA and MDEQ should conduct their own public hearings which provide a more supportive setting for citizens to testify. In addition, throughout this entire process, the agencies let the public assume that CERCLA and RCRA decision making authority had been transferred to Butte-Silver Bow local government. Certainly, input from local government is a significant element of public input but local government does not determine how Federal policy is enforced.

(3) The shortened comment period gave, at least, the impression of a rush to judgment. While it may be true that the public comment period was not mandated in the first place (a matter of dispute), if a comment period was to be held, it should have been done correctly. Many members of the public do not work for remuneration in the Superfund area. It takes time for them to collect information and form reasoned opinions about what should be done. The abbreviated comment period on the Clark Tailings project made reasoned public input very difficult. EPA and MDEQ should never have had this rushed comment period.

Suggestions:

1. Agency officials should be decision neutral during the comment period.
2. The EPA and MDEQ should conduct their own public hearings.
3. Comment periods, if held, should be at least 30 days in order to allow the public time to become informed and offer reasoned comments.

In past decisions such as those on the Berkeley Pit, Streamside Tailings, Priority Soils and the Montana Pole Plant, I feel MDEQ and EPA could take pride in how the public comment period was handled and how public input was received. The public comment process on the Clark Tailings issue did not come close to the usual high agency standards. I know that the personnel of the EPA and MDEQ are committed to protecting human health and the environment. Montana is fortunate to have so many competent and concerned people working on the state and federal level. Sadly, a public comment process such as that on the Clark Tailings lessens public confidence in agency concern. In the past I have always felt that MDEQ and EPA officials, while maybe not agreeing with me, listened to me and that my input was considered. I had no such feelings in the Clark Tailings decision making process.

LETTER OF TRANSMITTAL

REVISED

CDM Federal Programs Corporation
The Power Block
West 6th & Last Chance Gulch, Suite 4W
Helena, MT 59601

(406) 443-7559
fax/(406) 449-3668

To: Ron Bertram
US EPA - Montana Office

Date: 3/21/97

COPIES	DATE	DESCRIPTION
10	March '97	Responsiveness Summary for the Amended Enforcement / Action Memorandum Change In Scope of Response for the NTCRA at the LAO OU

The following action is required:

☐ For approval and signature
☐ For review and comment (Review Form is Attached)

QA Review
Editorial Review
Technical Review

☒ For your use (No Action Required)
☐ Other ______

REMARKS: cc: CTEC (5)
Butte Department of Health (3)
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Pat Crowley, DEQ (2)
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Ted Tornow, Butte Copper Kings

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RESPONSIVENESS SUMMARY
FOR THE
AMENDED ENFORCEMENT/ACTION MEMORANDUM

CHANGE IN SCOPE OF RESPONSE
FOR THE
NON-TIME-CRITICAL REMOVAL ACTION
AT THE
LOWER AREA ONE OPERABLE UNIT
SILVER BOW CREEK/BUTTE AREA (ORIGINAL PORTION) SUPERFUND SITE
BUTTE, MONTANA

MARCH 1997

I. OVERVIEW

The U.S. Environmental Protection Agency (EPA) has prepared this Responsiveness Summary in conjunction with the March 1997 Amended Enforcement/Action Memorandum to document and respond to issues and comments raised by the public regarding a Change in Scope of Response for the Non-Time-Critical Removal Action at the Lower Area One (LAO) Operable Unit (OU) of the Silver Bow Creek/Butte Area (Original Portion) Superfund Site in Butte, Montana. The Change in Scope of Response involves the use of an alternative disposal site for the remaining LAO wastes, which includes wastes from the Colorado Tailings and the Butte Reduction Works areas that will be excavated as part of the LAO cleanup action.

The removal action is still intended primarily to mitigate potential threats to human health and the environment from inorganic contaminants, particularly arsenic, cadmium, copper, lead, and zinc, and may necessarily address organic contamination associated with the inorganic contamination. Under the initial Enforcement/Action Memorandum dated December 31, 1991, and described in the *LAO OU Final Expedited Response Action Work Plan* dated April 30, 1992, the first phase of the response action consists of two basic removal segments. The first segment, removal and disposal of tailings, metals-contaminated soils, debris, and railroad embankment materials in the unsaturated zone, was completed in 1994. The materials excavated in the first segment were transported by rail approximately 25 miles to the Opportunity Ponds near Anaconda, Montana. Under the initial Enforcement/Action Memorandum and the Work Plan, the saturated materials removed as part of the second segment would also be transported to the Opportunity Ponds disposal site. Some pilot excavation and removal was done in 1995 and 1996, with disposal occurring at the Opportunity Ponds. If approved, the March 1997 Amended Enforcement/Action Memorandum will select the Clark Tailings site, less than two miles south of the LAO OU, for disposal of the remaining materials. No further disposal of LAO materials at the Opportunity Ponds will occur if the Clark Tailings site is approved.

The initial Enforcement/Action Memorandum in 1991 found that use of the Clark Tailings as a disposal site to be infeasible due to the excessive time it would take to implement the necessary hydrologic, geotechnical, and institutional control evaluations. In January 1997, the Final Draft Corrective Measures Assessment (CMA) for the Old Butte-Silver Bow County Landfill/Clark Tailings

was submitted to the Montana Department of Environmental Quality (DEQ) Solid Waste Program by Butte-Silver Bow (BSB) County pursuant to existing solid waste requirements. The CMA provided adequate information to evaluate the suitability of the Clark Tailings as a potential disposal site for LAO wastes. The preferred alternative described in the CMA for closure of the Clark Tailings with wastes from LAO was found by DEQ to be technically feasible and DEQ will approve the plan. Additionally, property transfer and access issues were resolved by the PRPs. Use of the Clark Tailings as a disposal area for LAO wastes will allow for quicker completion of the second segment of waste removal at LAO and potentially provide better sequencing of other related projects such as the Butte Priority Soils and Streamside Tailings cleanups.

Overall, most of the verbal and written comments were generally supportive of the proposed action. Many comments received were related to the design of the proposed recreational complex. EPA has referred all comments on the recreational facility to BSB County and ARCO, as that activity is not part of the Superfund cleanup. In addition, many comments indicated concerns regarding the safety of transporting LAO wastes by truck to the Clark Tailings, the Old Landfill/Clark Tailings cap design, site monitoring during and after construction, and health and safety concerns with gasses being vented from the landfill.

II. BACKGROUND ON COMMUNITY INVOLVEMENT FOR THIS ACTION

EPA has conducted community involvement activities for this action in accordance with federal laws and EPA Superfund guidance documents. Copies of the documents related to this action were made available for public review at the Butte EPA Office at the Butte-Silver Bow County Courthouse, the Montana Tech Library, the EPA Records Center at the Federal Building in Helena, and the DEQ Solid Waste Program offices in the Metcalf Building in Helena. The full administrative record for the original Action Memorandum decision and this supplement are also available for review.

Due to the interrelationship of the closure of the Old Landfill/Clark Tailings with the possible disposal of LAO wastes at the Clark Tailings, all community relations activities for this action were coordinated with BSB County. The public, via a presentation to the BSB Council of Commissioners, was originally notified of the proposed project on February 5, 1997. Initial information on the proposed actions was released to the public in

a Site Update fact sheet sent to approximately 200 persons on EPA's mailing list on February 6, 1997. Additionally, an article regarding the proposed project appeared on the front page of the *Montana Standard* on February 6, 1997. A February 11, 1997, public informational meeting and a February 19, 1997, public hearing before the BSB Council of Commissioners were announced in a display advertisement in the *Montana Standard* starting on February 9, 1997. A public notice was also placed in the *Montana Standard* by EPA and BSB County on February 9 and February 16, 1997, which announced a public comment period on the proposed change. Among the public comments received at these meetings was a request to extend the written comment period beyond the original closing date of February 21, 1997. At the request of the BSB Council of Commissioners and due to the volume of verbal comments received from the public, EPA agreed that extending the written comment period was appropriate and the comment period was extended one week to February 28, 1997. In addition, another public informational meeting was held on February 25, 1997, and the BSB Council of Commissioners continued the February 19 public hearing on this matter on February 26, 1997. On March 5, 1997, the BSB Council of Commissioners recommended that DEQ approve the preferred corrective measures and closure plans for the Old Landfill/Clark Tailings, and recommended that EPA amend the LAO Action Memorandum as proposed.

III. SUMMARY OF COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD AND AGENCY RESPONSES

The public comment period on the proposed action was held from February 5, 1997, to February 28, 1997. Comments received during this time are summarized below. Part 1 addresses comments received during the public informational meetings and the public hearings. Responses to written comments received by EPA are provided in Part 2. Comments in each part are categorized by relevant topics.

Part 1: Summary and Response to Comments Received During the Public Informational Meetings and Public Hearing

Proposed Recreational Facility

(1) Many comments, questions, and suggestions were expressed on the proposed recreational facility to be constructed on the new disposal site.

EPA Response: EPA does not object to the proposed recreational facility, as it is consistent with appropriate closure requirements. However, questions regarding the type of facility to be constructed, facility design, infrastructure improvements, facility location, etc. should be addressed by BSB County and ARCO, as the recreational facility is not required by EPA and is not part of the Superfund remediation.

Waste Transportation Safety Concerns

(1) A comparison of the truck transport safety issues of this action versus the truck transport issues of the rejected plan to haul wastes from Streamside Tailings to Opportunity Ponds was requested.

EPA Response: The transportation route from LAO to the Old Landfill/Clark Tailings area crosses two public roads (Greenwood Ave. and Beeftrail Rd.) that are normally traveled by nearby residents. The remainder of the transportation route is an off-road haul of less than two miles through a non-residential corridor. This transport route will not change over the course of the project.

Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on and across major public roads at several locations. For example, travel from Streamside Tailings Subareas 1 and 2 would have involved hauling on several county roads and on Interstate 90. The hauling of wastes from various points along Silver Bow Creek would have required variable haul routes and the potential for considerable interference with the public would have occurred at varied and changing locations on and across public roads. However, these concerns can be addressed, for the most part, through appropriate health and safety measures. Nevertheless, public safety risks associated with over-the-road haul situations, such as the proposed haul route from Silver Bow Creek to Opportunity Ponds, are much higher compared to crossing situations, such as the haul on a dedicated road from LAO to the Clark Tailings.

(2) Concerns were expressed regarding road crossing safety and the decontamination of trucks. It was also suggested that a concrete pad be constructed at the crossing, that the haul

trucks should stop for traffic, and that rest breaks be given to flagmen to ensure safety.

EPA Response: EPA has assurances from ARCO that it is fully committed to making safety a priority on this project. The public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include the following elements:

- Two flagmen at each crossing with radio communication between construction traffic and each other;
- traffic signs and lights;
- trained flagmen and equipment operators;
- requirements for the public to stop every time at road crossings during construction work hours;
- provisions for cleaning and maintaining the road crossings;
- safe crossing markers on each side of the road crossings; and
- frequent evaluations of the effectiveness of crossing safety.

ARCO has stated that these policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. ARCO indicates that these resources concur that it is much more safe to request comparatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

State solid waste requirements, and will be implemented and monitored by DEQ pursuant to those authorities.

(2) A concern was raised that the clay material used in the cap must be of sufficient specifications and consistent purity so as to hold up over time. Also it should be free of additional contaminants, a concern with respect to the clay materials below the Colorado Tailings which may be used in the construction of the Clark Tailings cap. There was also concern expressed about adequately separating the clay materials from the overlying tailings.

EPA Response: During construction, ARCO must meet the requirements of a stringent construction quality assurance plan, approved by the DEQ Solid Waste Program. This plan requires extensive testing of the capping materials to document that they meet the specifications.

It will be possible to separate much of the underlying clay from the tailings. This was the case during the July 1996 construction of test pads of these materials. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings and these materials will not be used for the infiltration barrier layer. Rather, these materials will be disposed with the other tailings. EPA and/or DEQ officials will be present during excavation and construction to ensure that only suitable materials are used for the infiltration barrier layer.

(3) Concerns and questions were raised regarding the potential for desiccation (drying) of the clay infiltration barrier, the effect of freeze/thaw cycles, cap maintenance, cap erosion, the potential for biointrusion (e.g., gopher holes), and differential settlement.

EPA Response: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils, allowing water to flow more freely through the soils. The clay materials to be used will exceed the hydraulic conductivity (resistance to flow) specification by more than an order of magnitude (more than 10 times) and, therefore, can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design

includes compacted waste below the infiltration barrier layer (to assist in preventing infiltration), a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential, and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

Maintenance of the cap will be provided as required by DEQ regulations. Erosion of a properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings and maximum slopes of 25%, a healthy vegetative cover should be relatively easy to establish and will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. Venting of the landfill gas and the installation of the clay cap will help mitigate this problem.

Biointrusion (e.g., ground squirrels) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on the landfill cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Site Monitoring

(1) There was concern that DEQ lacked the necessary resources to monitor and enforce the closure of the site.

EPA Response: EPA has agreed to assist DEQ in the oversight of construction activities at the Old Landfill/Clark Tailings closure. DEQ will still maintain the regulatory authority for the Old Landfill/Clark Tailings closure. EPA will oversee all activities associated with the removal and transportation of LAO materials to the Clark Tailings site.

(2) A question was raised about monitoring deeper levels of the groundwater aquifer below the existing tailings deposit and landfill area. The groundwater monitoring thus far has been at a shallow level.

EPA Response: The groundwater monitoring system in place at the site has been approved by DEQ and will detect any contamination emanating from the site. There is no "deep" aquifer separated from the alluvial aquifer that is currently being monitored. Should any contaminants be released, they would first be detected in the shallow portions of the aquifer.

Old Landfill Closure Concerns

(1) A concern was expressed that the Old Landfill already has overburden on it and the closure will place even more overburden on it, causing greater settlement.

EPA Response: The design of the Old Landfill/Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is intended to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the Old Landfill cap. Also, final grades on the landfill cap will be constructed with an average grade of 5% to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Off-Site Concerns

(1) Some residents near the site complained of sediments from the Clark Tailings being carried off-site by runoff from Timber Butte. These sediments have been deposited in a drainage downstream from the site.

EPA Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, erosion from the site will be mitigated. In the future, the amount of sediment emanating

from the Old Landfill/Clark Tailings site will be substantially less than it has been historically.

This area is not presently part of the Old Landfill/Clark Tailings site. The contaminated soils and sediments in this area that are not part of the Old Landfill/Clark Tailings closure plan will be addressed at a later date in the Record of Decision for the Butte Priority Soils Operable Unit.

(2) There was a concern expressed that more tailings were being placed within a floodplain.

EPA Response: The Clark Tailings and the LAO materials that will be added to it, are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch.

(3) Drinking water wells below the site have been abandoned due to high iron content and a concern was expressed whether other contaminants have been detected.

EPA Response: The citizen who expressed this concern has been provided with the data from the analysis of their well sample which was collected during the assessment of corrective measures for the Old Landfill/Clark Tailings. The data shows that there are not elevated concentrations of other contaminants in their well.

(4) The presence of exposed tailings and drainage on the east side of the site was expressed as a concern.

EPA Response: Proper drainage control on the site is critical to the success of the action. Engineered drainage structures, including ditches and ponds, have been incorporated into the design, including a ditch along the east edge of the Clark Tailings. To help prevent erosion, bare areas will be revegetated with grasses.

Part 2: Summary and Response to Written Comments Received During the Public Comment Period

Letters from the Citizens' Technical Environmental Committee dated February 23 and March 4, 1997

(1) There is a citizen concern that the new repository is in a floodplain and that two different streams run through the property. In addition, there was concern that the site has a considerable potential for mobilizing contaminants.

EPA Response: The Clark Tailings and the LAO materials that will be added to it are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch. On-site ditches will be widened and recontoured as part of the revised site drainage plan. To help prevent erosion and sedimentation, bare areas will be revegetated.

Under present site conditions, EPA agrees that there is a potential for mobilizing contaminants. Portions of the Clark Tailings are exposed and therefore subject to transport via wind and water erosion, and possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(2) A citizen expressed concern that there is a high incidence of lung disease in her neighborhood and believes this to be attributable to air quality problems with the Clark Tailings. The prospect of additional tailings in the area does not please her, no matter what measures are taken to engineer their safety.

EPA Response: EPA suggests that this concern be brought to the attention of the Butte-Silver Bow Health Department.

Any air quality problems related to the Clark Tailings will be mitigated by their closure.

(3) Some citizens expressed the belief that their input would be of no avail, feeling that the decision was already made and public comment would not affect it.

EPA Response: Certainly, when EPA proposes a remedial or removal action, EPA believes the proposal has merit and is likely to become an approved action unless there are substantial concerns expressed by the pubic, local government or potentially responsible parties that cannot be adequately addressed. The concerns raised during the public participation process for this proposed action were substantial. However, EPA, in cooperation with the BSB government and DEQ, was able to make additions to the plan which EPA believes adequately addresses these concerns. Therefore, EPA believes it is justified to approve the proposed actions. The decision to approve the proposal was made after public input and approval would not have been given if public concerns could not have been addressed. In regard to the effect of public comment, the public concerns expressed during the public participation process were extremely valuable and were used by EPA to make important changes to the proposed action.

(4) There is a concern that the Old Landfill has not been compacted and a question was raised as to how the proposed cap will ensure adequate compaction so that the cap doesn't crack and have to be replaced at a later time, at taxpayer expense.

EPA Response: The landfill wastes were compacted during placement. However, as with any municipal solid waste landfill, there may be localized differential settlement. Therefore, slopes on the landfill were designed to accommodate some differential settlement and still provide positive drainage from the site. While differential settlement may require localized repairs conducted as part of regular maintenance at the facility, it will not require replacing the entire landfill cap at a later time. The cap will be installed in accordance with strict compaction specifications, but still may require periodic maintenance and repairs caused by differential settlement.

(5) Concerns were raised regarding Volatile Organic Compounds (VOCs) emanating from the Old Landfill and the health and safety of children playing near the area where landfill gases are being vented.

EPA Response: The levels of VOCs emanating from the landfill and the venting system is not expected to cause any human health concerns. However, the gases will be monitored and, if any problems are noted, a contingency plan will be developed and implemented to correct the problem. Greater detail regarding this question is provided in the response to Butte-Silver Bow County Board of Health question #4 in Part 2 of this Responsiveness Summary.

(6) A question was raised as to whether the comment period was shortened and the planning process speeded up such that there is an underlying benefit to ARCO with respect to the Natural Resource Damage lawsuit currently underway.

EPA Response: From EPA's perspective, the short comment period and the desire to reach a decision on the proposed action as quickly as possible had no relationship with the Natural Resource Damage lawsuit. EPA expedited the decision-making process because of its interest in expediting the removal of LAO wastes so that other Superfund actions in the Clark Fork River basin might move forward without delay.

(7) CTEC expressed the belief that EPA public comment hearings should not be combined with BSB County Council of Commissioners public hearings.

EPA Response: A decision was made in March 1995 by EPA and DEQ to integrate the closure of the Old Butte Silver Bow Landfill and the Clark Tailings area. As a result of the integrated closure and the subsequent proposal to dispose of LAO wastes at the Clark Tailings site, EPA, DEQ, and BSB County became jointly responsible for the activities necessary to carry out the proposal. The parties involved discussed the manner in which the public comment process should be conducted and decided that it would be more effective and less confusing to the public if the public participation process was conducted jointly by all parties. Although CTEC is expressing their belief that this was a mistake, EPA disagrees and believes that the public

participation process was properly handled as a joint effort.

(8) According to CTEC, there was the perception that EPA had already decided to go ahead with the proposed action whether citizens supported it or not.

EPA Response: Please refer to the response for comment 3, Part 2 above.

Letter from the Butte-Silver Bow Health Department to Chief Executive Jack Lynch and the Butte-Silver Bow Council of Commissioners dated February 19, 1997

(1) The Board of Health (BOH) recommends that an Ambient Air Quality Monitoring Plan be designed and implemented, which will be protective of human health and the environment, during all phases of excavation, transportation, and construction.

EPA Response: EPA has directed ARCO to conduct an ambient air quality monitoring program for the proposed activities, and this plan will be included in design documents. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

(2) The BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems.

EPA Response: As soon as it becomes available, a telephone number and instructions for reporting dust problems will be published in the Montana Standard. The contact for reporting dust problems will be active at all times including weekends and holidays.

(3) There is a concern that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days. The BOH recommends that the Ambient Air Quality Monitoring Plan include a dust response plan whereby fugitive dust problems will be responded to in a timely manner.

EPA Response: The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

(4) The Final Draft CMA states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the Old Landfill in its peak year of gas production. The BOH questions whether or not the projected 8.5 tons per year of NMOCs will endanger the public's health and safety on site and/or downwind in the nearby communities. The BOH recommends that a contingency plan, including specified response actions for gas venting, be prepared in advance of construction should it later be realized that alternative gas venting measures are necessary.

EPA Response: The 8.5 tons per year reported in the Final Draft CMA is based on EPA's conservative default values for NMOC concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the DEQ Solid Waste Program if the facility may require an air quality permit based on default values. The intent of utilizing the default values was to show that even with the conservative default values, the Old Landfill will not approach regulatory action levels, including the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year. Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995 and the gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or

not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system will be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

(5) Will there be any odors associated with respect to the 8.5 tons per year of NMOC emissions?

EPA Response: Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting and better dispersion.

(6) What will be the respective roles of EPA and DEQ during the project?

EPA Response: EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-

1150, ext. 258) is the designated contact for EPA. DEQ is the lead agency for placement of the materials at the Clark Tailings, installation of the cap over the Clark Tailings and the landfill, and installation of the gas venting system. Pat Crowley (444-5294) is the DEQ point of contact. In this role, DEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Old Landfill/Clark Tailings area and subsequent Closure and Corrective Measures Plan. During placement of the materials at the Clark Tailings and installation of the cap, DEQ will be the lead agency. However, DEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. DEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. DEQ must also approve the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

(7) What will be the role of BSB during construction?

EPA Response: BSB County does not have a direct role during construction. BSB County, however, does have review and approval authority during the design process, as a co-permit applicant with ARCO. During construction, BSB will have access to the site and can voice its concerns through EPA and/or DEQ. Any changes to the design during the construction process must be approved by DEQ. At BSB County's request, DEQ has agreed to involve BSB in the approval process to any proposed changes to the design.

(8) Why isn't lime, limestone, or limerock being used in any of the proposed caps?

EPA Response: No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravel is specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying

will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

(11) Isn't the purpose of the 18-inch clay infiltration barrier to prevent water infiltration? Where is the water draining to as it flows through the coarse media above the clay layer?

EPA Response: The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the clay materials used for the infiltration barrier layer are not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer discharges to surface water ditches around the perimeter of the site.

(12) Will it be logistically feasible to segregate the Colorado Tailings from the silts and clay below for use in the Clark Tailings cap? What levels will be used to determine acceptable levels of metals? What criteria will be used to approve the use of these materials? If there is an inadequate supply of silt and clay material below the Colorado Tailings, will there still be enough material available from the Hollow borrow pit?

EPA Response: Although there was some success in separating the underlying clay from the tailings during the construction of test pads of these materials in July 1996, EPA has some concern that this will not be possible in full-scale operation. As a result, EPA will closely monitor the segregation of the clay and if it is not feasible, EPA will require ARCO to obtain an alternate clay source. ARCO has made a commitment to EPA that only suitable materials will be used for the infiltration barrier layer.

An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. DEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

(13) The Final Draft CMA states that the proposed lined pond south of the tailings may also be used as a source for irrigation water. Will this pond be adequate to maintain the necessary vegetation caps during periods of low flow? What is the alternative source for irrigation water?

EPA Response: Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

(14) Who will be responsible for repairing the caps in the event of catastrophic failure of the cap and any associated cleanup? Are any of the subject properties located in a designated floodplain?

EPA Response: By private agreement between BSB and ARCO, ARCO, the identified PRP for this action, remains fully responsible for all aspects of this project. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

(15) It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this closure action?

EPA Response: There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other Superfund activities, most likely as part of the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Area Superfund Site.

(16) What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) during and after construction is complete?

EPA Response: ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

(17) The BOH commented that the public comment period was too short.

EPA Response: In response to this comment, the Council of Commissioners and EPA extended the deadline for written comment from February 21 to February 28, 1997. In addition, a second community meeting was held at the Butte Community Center on February 25 and the public hearing on February 19 was continued to February 26, 1997.

Letter from Frank H. and Jean R. Brasier dated February 10, 1997

(1) Why does the Old Landfill/Clark Tailings site now meet siting criteria when previously it did not?

EPA Response: Please refer to the third paragraph of Section I - Overview.

(2) The site is too near residences, roadways, and would affect water quality.

EPA Response: Closure activities at the Old Landfill/Clark Tailings site was required by the DEQ Solid Waste Program and would have occurred with or without the addition of materials from LAO. The addition of the LAO materials will not increase the area to be closed and, therefore, waste materials will be no closer to residences and roadways than under present site conditions.

Presently, portions of the Clark Tailings are exposed and therefore subject to possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste

materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(3) The number of haul trucks will endanger public safety.

EPA Response: Please refer to the responses under Part 1 - Waste Transportation Safety Concerns.

(4) No cap could make it safe for children to play on contaminated tailings and an old landfill.

EPA Response: Please refer to the response to question (1) under Part 1 - Capping of the Old Landfill/Clark Tailings.

Letter from Cynthia Kromm, D.J. Minerals, Inc., dated February 28, 1997.

(1) Additional dust monitoring stations to protect motorists traveling near the site and westside residents were suggested.

EPA Response: The EPA, BSB Health Department, BOH, and DEQ have reviewed the proposed dust monitoring plan submitted by ARCO and added three additional monitoring stations. With these additional stations, EPA and the other agencies believe there is now an adequate number stations for dust monitoring.

(2) A concern was expressed regarding the quality of the clay material proposed for the impermeable cap.

EPA Response: Please refer to the response to question (2) under Part 1 - Capping of the Old Landfill/Clark Tailings.

(3) It was suggested using higher quality clay material for the bottom part of the cap, possibly that material from the Hollow Construction Company pit, and use the clay material beneath the Colorado Tailings to finish off the less critical top part of the layer.

EPA Response: EPA acknowledges this suggestion. Also, please refer to the response to question (12) under Part 2 - Letter from the Butte-Silver Bow Health Department to Chief

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COMMUNITY SERVICES BUREAU

RESPONSIVENESS SUMMARY

FOR THE

AMENDED ENFORCEMENT/ACTION MEMORANDUM

CHANGE IN SCOPE OF RESPONSE

FOR THE

NON-TIME-CRITICAL REMOVAL ACTION

AT THE

LOWER AREA ONE OPERABLE UNIT
SILVER BOW CREEK/BUTTE AREA (ORIGINAL PORTION) SUPERFUND SITE
BUTTE, MONTANA

MARCH 1997

I. OVERVIEW

The U.S. Environmental Protection Agency (EPA) has prepared this Responsiveness Summary in conjunction with the March 1997 Amended Enforcement/Action Memorandum to document and respond to issues and comments raised by the public regarding a Change in Scope of Response for the Non-Time-Critical Removal Action at the Lower Area One (LAO) Operable Unit (OU) of the Silver Bow Creek/Butte Area (Original Portion) Superfund Site in Butte, Montana. The Change in Scope of Response involves the use of an alternative disposal site for the remaining LAO wastes, which includes wastes from the Colorado Tailings and the Butte Reduction Works areas that will be excavated as part of the LAO cleanup action.

The removal action is still intended primarily to mitigate potential threats to human health and the environment from inorganic contaminants, particularly arsenic, cadmium, copper, lead, and zinc, and may necessarily address organic contamination associated with the inorganic contamination. Under the initial Enforcement/Action Memorandum dated December 31, 1991, and described in the *LAO OU Final Expedited Response Action Work Plan* dated April 30, 1992, the first phase of the response action consists of two basic removal segments. The first segment, removal and disposal of tailings, metals-contaminated soils, debris, and railroad embankment materials in the unsaturated zone, was completed in 1994. The materials excavated in the first segment were transported by rail approximately 25 miles to the Opportunity Ponds near Anaconda, Montana. Under the initial Enforcement/Action Memorandum and the Work Plan, the saturated materials removed as part of the second segment would also be transported to the Opportunity Ponds disposal site. Some pilot excavation and removal was done in 1995 and 1996, with disposal occurring at the Opportunity Ponds. If approved, the March 1997 Amended Enforcement/Action Memorandum will select the Clark Tailings site, less than two miles south of the LAO OU, for disposal of the remaining materials. No further disposal of LAO materials at the Opportunity Ponds will occur if the Clark Tailings site is approved.

The initial Enforcement/Action Memorandum in 1991 found that use of the Clark Tailings as a disposal site to be infeasible due to the excessive time it would take to implement the necessary hydrologic, geotechnical, and institutional control evaluations. In January 1997, the Final Draft Corrective Measures Assessment (CMA) for the Old Butte-Silver Bow County Landfill/Clark Tailings

was submitted to the Montana Department of Environmental Quality (DEQ) Solid Waste Program by Butte-Silver Bow (BSB) County pursuant to existing solid waste requirements. The CMA provided adequate information to evaluate the suitability of the Clark Tailings as a potential disposal site for LAO wastes. The preferred alternative described in the CMA for closure of the Clark Tailings with wastes from LAO was found by DEQ to be technically feasible and DEQ will approve the plan. Additionally, property transfer and access issues were resolved by the PRPs. Use of the Clark Tailings as a disposal area for LAO wastes will allow for quicker completion of the second segment of waste removal at LAO and potentially provide better sequencing of other related projects such as the Butte Priority Soils and Streamside Tailings cleanups.

Overall, most of the verbal and written comments were generally supportive of the proposed action. Many comments received were related to the design of the proposed recreational complex. EPA has referred all comments on the recreational facility to BSB County and ARCO, as that activity is not part of the Superfund cleanup. In addition, many comments indicated concerns regarding the safety of transporting LAO wastes by truck to the Clark Tailings, the Old Landfill/Clark Tailings cap design, site monitoring during and after construction, and health and safety concerns with gasses being vented from the landfill.

II. BACKGROUND ON COMMUNITY INVOLVEMENT FOR THIS ACTION

EPA has conducted community involvement activities for this action in accordance with federal laws and EPA Superfund guidance documents. Copies of the documents related to this action were made available for public review at the Butte EPA Office at the Butte-Silver Bow County Courthouse, the Montana Tech Library, the EPA Records Center at the Federal Building in Helena, and the DEQ Solid Waste Program offices in the Metcalf Building in Helena. The full administrative record for the original Action Memorandum decision and this supplement are also available for review.

Due to the interrelationship of the closure of the Old Landfill/Clark Tailings with the possible disposal of LAO wastes at the Clark Tailings, all community relations activities for this action were coordinated with BSB County. The public, via a presentation to the BSB Council of Commissioners, was originally notified of the proposed project on February 5, 1997. Initial information on the proposed actions was released to the public in

a Site Update fact sheet sent to approximately 200 persons on EPA's mailing list on February 6, 1997. Additionally, an article regarding the proposed project appeared on the front page of the *Montana Standard* on February 6, 1997. A February 11, 1997, public informational meeting and a February 19, 1997, public hearing before the BSB Council of Commissioners were announced in a display advertisement in the *Montana Standard* starting on February 9, 1997. A public notice was also placed in the *Montana Standard* by EPA and BSB County on February 9 and February 16, 1997, which announced a public comment period on the proposed change. Among the public comments received at these meetings was a request to extend the written comment period beyond the original closing date of February 21, 1997. At the request of the BSB Council of Commissioners and due to the volume of verbal comments received from the public, EPA agreed that extending the written comment period was appropriate and the comment period was extended one week to February 28, 1997. In addition, another public informational meeting was held on February 25, 1997, and the BSB Council of Commissioners continued the February 19 public hearing on this matter on February 26, 1997. On March 5, 1997, the BSB Council of Commissioners recommended that DEQ approve the preferred corrective measures and closure plans for the Old Landfill/Clark Tailings, and recommended that EPA amend the LAO Action Memorandum as proposed.

III. SUMMARY OF COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD AND AGENCY RESPONSES

The public comment period on the proposed action was held from February 5, 1997, to February 28, 1997. Comments received during this time are summarized below. Part 1 addresses comments received during the public informational meetings and the public hearings. Responses to written comments received by EPA are provided in Part 2. Comments in each part are categorized by relevant topics.

Part 1: Summary and Response to Comments Received During the Public Informational Meetings and Public Hearing

Proposed Recreational Facility

(1) Many comments, questions, and suggestions were expressed on the proposed recreational facility to be constructed on the new disposal site.

EPA Response: EPA does not object to the proposed recreational facility, as it is consistent with appropriate closure requirements. However, questions regarding the type of facility to be constructed, facility design, infrastructure improvements, facility location, etc. should be addressed by BSB County and ARCO, as the recreational facility is not required by EPA and is not part of the Superfund remediation.

Waste Transportation Safety Concerns

(1) A comparison of the truck transport safety issues of this action versus the truck transport issues of the rejected plan to haul wastes from Streamside Tailings to Opportunity Ponds was requested.

EPA Response: The transportation route from LAO to the Old Landfill/Clark Tailings area crosses two public roads (Greenwood Ave. and Beeftrail Rd.) that are normally traveled by nearby residents. The remainder of the transportation route is an off-road haul of less than two miles through a non-residential corridor. This transport route will not change over the course of the project.

Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on and across major public roads at several locations. For example, travel from Streamside Tailings Subareas 1 and 2 would have involved hauling on several county roads and on Interstate 90. The hauling of wastes from various points along Silver Bow Creek would have required variable haul routes and the potential for considerable interference with the public would have occurred at varied and changing locations on and across public roads. However, these concerns can be addressed, for the most part, through appropriate health and safety measures. Nevertheless, public safety risks associated with over-the-road haul situations, such as the proposed haul route from Silver Bow Creek to Opportunity Ponds, are much higher compared to crossing situations, such as the haul on a dedicated road from LAO to the Clark Tailings.

(2) Concerns were expressed regarding road crossing safety and the decontamination of trucks. It was also suggested that a concrete pad be constructed at the crossing, that the haul

trucks should stop for traffic, and that rest breaks be given to flagmen to ensure safety.

EPA Response: EPA has assurances from ARCO that it is fully committed to making safety a priority on this project. The public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include the following elements:

- Two flagmen at each crossing with radio communication between construction traffic and each other;
- traffic signs and lights;
- trained flagmen and equipment operators;
- requirements for the public to stop every time at road crossings during construction work hours;
- provisions for cleaning and maintaining the road crossings;
- safe crossing markers on each side of the road crossings; and
- frequent evaluations of the effectiveness of crossing safety.

ARCO has stated that these policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. ARCO indicates that these resources concur that it is much more safe to request comparatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

The two flagmen at each crossing will communicate closely with each other and the equipment operators. The flagmen will complete and document daily inspections of the crossings. One flagman will be the leader at each crossing to avoid sending confusing signals to the public or equipment operators. Construction foremen and site supervisors will check on the flagmen regularly during the day and will provide them with breaks, as needed.

Crossing signs and lights will be sized and located according to the Federal Manual of Uniform Traffic Control Devices. Signs and lights will be decommissioned during non-working hours.

In consideration of public traffic needs, the crossing surfaces will be maintained to promote safe travel. This will include an overlay of asphalt or equivalent on the existing road. If the overlay surface is damaged, it will be repaired. Once hauling activities are complete, the crossing surface will be returned to its existing or better condition. The crossing will also be cleaned promptly in the unlikely event that materials from haul trucks are spilled on the crossings. However, care will be taken when loading haul trucks to ensure that material spillage on haul roads is minimal, if any. From past experience on the LAO project, spillage and tracking of materials from haul trucks has not been a problem. Additionally, most of the haul road is off-road where any minor material spills would not impact the public and would be cleaned up as needed. Decontamination of haul trucks is not expected to be necessary.

Capping of the Old Landfill/Clark Tailings

(1) Concerns were expressed as to whether the cap will be protective of human health and the environment.

EPA Response: The multi-media cap covering the Old Landfill/Clark Tailings will be approximately three feet thick and will prevent direct contact with people and the environment. The cap will be stabilized with a vegetative cover to help prevent erosion and will contain an infiltration barrier layer to limit movement of water through the wastes to groundwater. Regular maintenance will ensure continued cap integrity. The cap complies fully with

State solid waste requirements, and will be implemented and monitored by DEQ pursuant to those authorities.

(2) A concern was raised that the clay material used in the cap must be of sufficient specifications and consistent purity so as to hold up over time. Also it should be free of additional contaminants, a concern with respect to the clay materials below the Colorado Tailings which may be used in the construction of the Clark Tailings cap. There was also concern expressed about adequately separating the clay materials from the overlying tailings.

EPA Response: During construction, ARCO must meet the requirements of a stringent construction quality assurance plan, approved by the DEQ Solid Waste Program. This plan requires extensive testing of the capping materials to document that they meet the specifications.

It will be possible to separate much of the underlying clay from the tailings. This was the case during the July 1996 construction of test pads of these materials. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings and these materials will not be used for the infiltration barrier layer. Rather, these materials will be disposed with the other tailings. EPA and/or DEQ officials will be present during excavation and construction to ensure that only suitable materials are used for the infiltration barrier layer.

(3) Concerns and questions were raised regarding the potential for desiccation (drying) of the clay infiltration barrier, the effect of freeze/thaw cycles, cap maintenance, cap erosion, the potential for biointrusion (e.g., gopher holes), and differential settlement.

EPA Response: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils, allowing water to flow more freely through the soils. The clay materials to be used will exceed the hydraulic conductivity (resistance to flow) specification by more than an order of magnitude (more than 10 times) and, therefore, can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design

includes compacted waste below the infiltration barrier layer (to assist in preventing infiltration), a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential, and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

Maintenance of the cap will be provided as required by DEQ regulations. Erosion of a properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings and maximum slopes of 25%, a healthy vegetative cover should be relatively easy to establish and will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. Venting of the landfill gas and the installation of the clay cap will help mitigate this problem.

Biointrusion (e.g., ground squirrels) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on the landfill cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Site Monitoring

(1) There was concern that DEQ lacked the necessary resources to monitor and enforce the closure of the site.

EPA Response: EPA has agreed to assist DEQ in the oversight of construction activities at the Old Landfill/Clark Tailings closure. DEQ will still maintain the regulatory authority for the Old Landfill/Clark Tailings closure. EPA will oversee all activities associated with the removal and transportation of LAO materials to the Clark Tailings site.

(2) A question was raised about monitoring deeper levels of the groundwater aquifer below the existing tailings deposit and landfill area. The groundwater monitoring thus far has been at a shallow level.

EPA Response: The groundwater monitoring system in place at the site has been approved by DEQ and will detect any contamination emanating from the site. There is no "deep" aquifer separated from the alluvial aquifer that is currently being monitored. Should any contaminants be released, they would first be detected in the shallow portions of the aquifer.

Old Landfill Closure Concerns

(1) A concern was expressed that the Old Landfill already has overburden on it and the closure will place even more overburden on it, causing greater settlement.

EPA Response: The design of the Old Landfill/Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is intended to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the Old Landfill cap. Also, final grades on the landfill cap will be constructed with an average grade of 5% to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Off-Site Concerns

(1) Some residents near the site complained of sediments from the Clark Tailings being carried off-site by runoff from Timber Butte. These sediments have been deposited in a drainage downstream from the site.

EPA Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, erosion from the site will be mitigated. In the future, the amount of sediment emanating

from the Old Landfill/Clark Tailings site will be substantially less than it has been historically.

This area is not presently part of the Old Landfill/Clark Tailings site. The contaminated soils and sediments in this area that are not part of the Old Landfill/Clark Tailings closure plan will be addressed at a later date in the Record of Decision for the Butte Priority Soils Operable Unit.

(2) There was a concern expressed that more tailings were being placed within a floodplain.

EPA Response: The Clark Tailings and the LAO materials that will be added to it, are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch.

(3) Drinking water wells below the site have been abandoned due to high iron content and a concern was expressed whether other contaminants have been detected.

EPA Response: The citizen who expressed this concern has been provided with the data from the analysis of their well sample which was collected during the assessment of corrective measures for the Old Landfill/Clark Tailings. The data shows that there are not elevated concentrations of other contaminants in their well.

(4) The presence of exposed tailings and drainage on the east side of the site was expressed as a concern.

EPA Response: Proper drainage control on the site is critical to the success of the action. Engineered drainage structures, including ditches and ponds, have been incorporated into the design, including a ditch along the east edge of the Clark Tailings. To help prevent erosion, bare areas will be revegetated with grasses.

Part 2: Summary and Response to Written Comments Received During the Public Comment Period

Letters from the Citizens' Technical Environmental Committee dated February 23 and March 4, 1997

(1) There is a citizen concern that the new repository is in a floodplain and that two different streams run through the property. In addition, there was concern that the site has a considerable potential for mobilizing contaminants.

EPA Response: The Clark Tailings and the LAO materials that will be added to it are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch. On-site ditches will be widened and recontoured as part of the revised site drainage plan. To help prevent erosion and sedimentation, bare areas will be revegetated.

Under present site conditions, EPA agrees that there is a potential for mobilizing contaminants. Portions of the Clark Tailings are exposed and therefore subject to transport via wind and water erosion, and possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(2) A citizen expressed concern that there is a high incidence of lung disease in her neighborhood and believes this to be attributable to air quality problems with the Clark Tailings. The prospect of additional tailings in the area does not please her, no matter what measures are taken to engineer their safety.

EPA Response: EPA suggests that this concern be brought to the attention of the Butte-Silver Bow Health Department.

Any air quality problems related to the Clark Tailings will be mitigated by their closure.

(3) Some citizens expressed the belief that their input would be of no avail, feeling that the decision was already made and public comment would not affect it.

EPA Response: Certainly, when EPA proposes a remedial or removal action, EPA believes the proposal has merit and is likely to become an approved action unless there are substantial concerns expressed by the pubic, local government or potentially responsible parties that cannot be adequately addressed. The concerns raised during the public participation process for this proposed action were substantial. However, EPA, in cooperation with the BSB government and DEQ, was able to make additions to the plan which EPA believes adequately addresses these concerns. Therefore, EPA believes it is justified to approve the proposed actions. The decision to approve the proposal was made after public input and approval would not have been given if public concerns could not have been addressed. In regard to the effect of public comment, the public concerns expressed during the public participation process were extremely valuable and were used by EPA to make important changes to the proposed action.

(4) There is a concern that the Old Landfill has not been compacted and a question was raised as to how the proposed cap will ensure adequate compaction so that the cap doesn't crack and have to be replaced at a later time, at taxpayer expense.

EPA Response: The landfill wastes were compacted during placement. However, as with any municipal solid waste landfill, there may be localized differential settlement. Therefore, slopes on the landfill were designed to accommodate some differential settlement and still provide positive drainage from the site. While differential settlement may require localized repairs conducted as part of regular maintenance at the facility, it will not require replacing the entire landfill cap at a later time. The cap will be installed in accordance with strict compaction specifications, but still may require periodic maintenance and repairs caused by differential settlement.

(5) Concerns were raised regarding Volatile Organic Compounds (VOCs) emanating from the Old Landfill and the health and safety of children playing near the area where landfill gases are being vented.

EPA Response: The levels of VOCs emanating from the landfill and the venting system is not expected to cause any human health concerns. However, the gases will be monitored and, if any problems are noted, a contingency plan will be developed and implemented to correct the problem. Greater detail regarding this question is provided in the response to Butte-Silver Bow County Board of Health question #4 in Part 2 of this Responsiveness Summary.

(6) A question was raised as to whether the comment period was shortened and the planning process speeded up such that there is an underlying benefit to ARCO with respect to the Natural Resource Damage lawsuit currently underway.

EPA Response: From EPA's perspective, the short comment period and the desire to reach a decision on the proposed action as quickly as possible had no relationship with the Natural Resource Damage lawsuit. EPA expedited the decision-making process because of its interest in expediting the removal of LAO wastes so that other Superfund actions in the Clark Fork River basin might move forward without delay.

(7) CTEC expressed the belief that EPA public comment hearings should not be combined with BSB County Council of Commissioners public hearings.

EPA Response: A decision was made in March 1995 by EPA and DEQ to integrate the closure of the Old Butte Silver Bow Landfill and the Clark Tailings area. As a result of the integrated closure and the subsequent proposal to dispose of LAO wastes at the Clark Tailings site, EPA, DEQ, and BSB County became jointly responsible for the activities necessary to carry out the proposal. The parties involved discussed the manner in which the public comment process should be conducted and decided that it would be more effective and less confusing to the public if the public participation process was conducted jointly by all parties. Although CTEC is expressing their belief that this was a mistake, EPA disagrees and believes that the public

participation process was properly handled as a joint effort.

(8) According to CTEC, there was the perception that EPA had already decided to go ahead with the proposed action whether citizens supported it or not.

EPA Response: Please refer to the response for comment 3, Part 2 above.

Letter from the Butte-Silver Bow Health Department to Chief Executive Jack Lynch and the Butte-Silver Bow Council of Commissioners dated February 19, 1997

(1) The Board of Health (BOH) recommends that an Ambient Air Quality Monitoring Plan be designed and implemented, which will be protective of human health and the environment, during all phases of excavation, transportation, and construction.

EPA Response: EPA has directed ARCO to conduct an ambient air quality monitoring program for the proposed activities, and this plan will be included in design documents. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

(2) The BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems.

EPA Response: As soon as it becomes available, a telephone number and instructions for reporting dust problems will be published in the Montana Standard. The contact for reporting dust problems will be active at all times including weekends and holidays.

(3) There is a concern that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days. The BOH recommends that the Ambient Air Quality Monitoring Plan include a dust response plan whereby fugitive dust problems will be responded to in a timely manner.

EPA Response: The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

(4) The Final Draft CMA states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the Old Landfill in its peak year of gas production. The BOH questions whether or not the projected 8.5 tons per year of NMOCs will endanger the public's health and safety on site and/or downwind in the nearby communities. The BOH recommends that a contingency plan, including specified response actions for gas venting, be prepared in advance of construction should it later be realized that alternative gas venting measures are necessary.

EPA Response: The 8.5 tons per year reported in the Final Draft CMA is based on EPA's conservative default values for NMOC concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the DEQ Solid Waste Program if the facility may require an air quality permit based on default values. The intent of utilizing the default values was to show that even with the conservative default values, the Old Landfill will not approach regulatory action levels, including the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year. Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995 and the gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or

not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system will be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

(5) Will there be any odors associated with respect to the 8.5 tons per year of NMOC emissions?

EPA Response: Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting and better dispersion.

(6) What will be the respective roles of EPA and DEQ during the project?

EPA Response: EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-

1150, ext. 258) is the designated contact for EPA. DEQ is the lead agency for placement of the materials at the Clark Tailings, installation of the cap over the Clark Tailings and the landfill, and installation of the gas venting system. Pat Crowley (444-5294) is the DEQ point of contact. In this role, DEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Old Landfill/Clark Tailings area and subsequent Closure and Corrective Measures Plan. During placement of the materials at the Clark Tailings and installation of the cap, DEQ will be the lead agency. However, DEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. DEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. DEQ must also approve the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

(7) What will be the role of BSB during construction?

EPA Response: BSB County does not have a direct role during construction. BSB County, however, does have review and approval authority during the design process, as a co-permit applicant with ARCO. During construction, BSB will have access to the site and can voice its concerns through EPA and/or DEQ. Any changes to the design during the construction process must be approved by DEQ. At BSB County's request, DEQ has agreed to involve BSB in the approval process to any proposed changes to the design.

(8) Why isn't lime, limestone, or limerock being used in any of the proposed caps?

EPA Response: No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravel is specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying

mine wastes. Reactive materials such as lime and limestone will degrade over time, compromising their effectiveness. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

(9) How will the Old Landfill/Clark Tailings caps be designed and constructed so that buildings, trees or shrubs, underground utilities, etc. can be put on the site without compromising the integrity of the cap?

EPA Response: The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

Structure foundations may require excavation of the infiltration barrier layer. Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility. If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

(10) How will facility operators be able to retrofit new or replacement structures/landscaping once construction is complete without endangering the integrity of the cap?

EPA Response: Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings

will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

(11) Isn't the purpose of the 18-inch clay infiltration barrier to prevent water infiltration? Where is the water draining to as it flows through the coarse media above the clay layer?

EPA Response: The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the clay materials used for the infiltration barrier layer are not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer discharges to surface water ditches around the perimeter of the site.

(12) Will it be logistically feasible to segregate the Colorado Tailings from the silts and clay below for use in the Clark Tailings cap? What levels will be used to determine acceptable levels of metals? What criteria will be used to approve the use of these materials? If there is an inadequate supply of silt and clay material below the Colorado Tailings, will there still be enough material available from the Hollow borrow pit?

EPA Response: Although there was some success in separating the underlying clay from the tailings during the construction of test pads of these materials in July 1996, EPA has some concern that this will not be possible in full-scale operation. As a result, EPA will closely monitor the segregation of the clay and if it is not feasible, EPA will require ARCO to obtain an alternate clay source. ARCO has made a commitment to EPA that only suitable materials will be used for the infiltration barrier layer.

An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. DEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

(13) The Final Draft CMA states that the proposed lined pond south of the tailings may also be used as a source for irrigation water. Will this pond be adequate to maintain the necessary vegetation caps during periods of low flow? What is the alternative source for irrigation water?

EPA Response: Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

(14) Who will be responsible for repairing the caps in the event of catastrophic failure of the cap and any associated cleanup? Are any of the subject properties located in a designated floodplain?

EPA Response: By private agreement between BSB and ARCO, ARCO, the identified PRP for this action, remains fully responsible for all aspects of this project. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

(15) It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this closure action?

EPA Response: There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other Superfund activities, most likely as part of the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Area Superfund Site.

(16) What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) during and after construction is complete?

EPA Response: ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

(17) The BOH commented that the public comment period was too short.

EPA Response: In response to this comment, the Council of Commissioners and EPA extended the deadline for written comment from February 21 to February 28, 1997. In addition, a second community meeting was held at the Butte Community Center on February 25 and the public hearing on February 19 was continued to February 26, 1997.

Letter from Frank H. and Jean R. Brasier dated February 10, 1997

(1) Why does the Old Landfill/Clark Tailings site now meet siting criteria when previously it did not?

EPA Response: Please refer to the third paragraph of Section I - Overview.

(2) The site is too near residences, roadways, and would affect water quality.

EPA Response: Closure activities at the Old Landfill/Clark Tailings site was required by the DEQ Solid Waste Program and would have occurred with or without the addition of materials from LAO. The addition of the LAO materials will not increase the area to be closed and, therefore, waste materials will be no closer to residences and roadways than under present site conditions.

Presently, portions of the Clark Tailings are exposed and therefore subject to possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste

materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(3) The number of haul trucks will endanger public safety.

EPA Response: Please refer to the responses under Part 1 - Waste Transportation Safety Concerns.

(4) No cap could make it safe for children to play on contaminated tailings and an old landfill.

EPA Response: Please refer to the response to question (1) under Part 1 - Capping of the Old Landfill/Clark Tailings.

Letter from Cynthia Kromm, D.J. Minerals, Inc., dated February 28, 1997.

(1) Additional dust monitoring stations to protect motorists traveling near the site and westside residents were suggested.

EPA Response: The EPA, BSB Health Department, BOH, and DEQ have reviewed the proposed dust monitoring plan submitted by ARCO and added three additional monitoring stations. With these additional stations, EPA and the other agencies believe there is now an adequate number stations for dust monitoring.

(2) A concern was expressed regarding the quality of the clay material proposed for the impermeable cap.

EPA Response: Please refer to the response to question (2) under Part 1 - Capping of the Old Landfill/Clark Tailings.

(3) It was suggested using higher quality clay material for the bottom part of the cap, possibly that material from the Hollow Construction Company pit, and use the clay material beneath the Colorado Tailings to finish off the less critical top part of the layer.

EPA Response: EPA acknowledges this suggestion. Also, please refer to the response to question (12) under Part 2 - Letter from the Butte-Silver Bow Health Department to Chief

Executive Jack Lynch and the Butte-Silver Bow Council of Commissioners dated February 19, 1997.

LETTER OF TRANSMITTAL

CDM Federal Programs Corporation
The Power Block, Suite 4W
West 6th and Last Chance Gulch
Helena, MT 59601
Phone · (406) 443-7559
Fax · (406) 443-1933

To: Ron Bertram
US EPA Montana Office

Date: 3/20/97

Job No: 3280-006-CR-FPCX

Enclosed are:

☒ Attached ☐ Under separate cover via ________________ the following items:

☐ Copy of letter ☐ Specifications
☐ Plans/Prints ☐ Sample

COPIES	DATE	DESCRIPTION
10	March 1997	Responsiveness Summary for the Amended Enforcement/Action Memorandum Change in Scope of Response for the NTCRA at the Lower Area One OU

Transmitted as checked below:

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COMMUNITY SERVICES BUREAU

REMARKS:

cc: Chuck Stilwell (ARCO) 5 copies
CTEC - 5 copies
BOH - 3 copies
K. Kirley (DEQ) - 2 copies
Pat Crowley (DEQ) - 2 copies
Brad Archibald - 5 copies

Signed:

If enclosures are not as noted, please notify us immediately.

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MAR 21 1997

MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

RESPONSIVENESS SUMMARY
FOR THE
AMENDED ENFORCEMENT/ACTION MEMORANDUM

CHANGE IN SCOPE OF RESPONSE
FOR THE
NON-TIME-CRITICAL REMOVAL ACTION
AT THE
LOWER AREA ONE OPERABLE UNIT
SILVER BOW CREEK/BUTTE AREA (ORIGINAL PORTION) SUPERFUND SITE
BUTTE, MONTANA

MARCH 1997

I. OVERVIEW

The U.S. Environmental Protection Agency (EPA) has prepared this Responsiveness Summary in conjunction with the March 1997 Amended Enforcement/Action Memorandum to document and respond to issues and comments raised by the public regarding a Change in Scope of Response for the Non-Time-Critical Removal Action at the Lower Area One (LAO) Operable Unit (OU) of the Silver Bow Creek/Butte Area (Original Portion) Superfund Site in Butte, Montana. The Change in Scope of Response involves the use of an alternative disposal site for the remaining LAO wastes, which includes wastes from the Colorado Tailings and the Butte Reduction Works areas that will be excavated as part of the LAO cleanup action.

The removal action is still intended primarily to mitigate potential threats to human health and the environment from inorganic contaminants, particularly arsenic, cadmium, copper, lead, and zinc, and may necessarily address organic contamination associated with the inorganic contamination. Under the initial Enforcement/Action Memorandum dated December 31, 1991, and described in the *LAO OU Final Expedited Response Action Work Plan* dated April 30, 1992, the first phase of the response action consists of two basic removal segments. The first segment, removal and disposal of tailings, metals-contaminated soils, debris, and railroad embankment materials in the unsaturated zone, was completed in 1994. The materials excavated in the first segment were transported by rail approximately 25 miles to the Opportunity Ponds near Anaconda, Montana. Under the initial Enforcement/Action Memorandum and the Work Plan, the saturated materials removed as part of the second segment would also be transported to the Opportunity Ponds disposal site. Some pilot excavation and removal was done in 1995 and 1996, with disposal occurring at the Opportunity Ponds. If approved, the March 1997 Amended Enforcement/Action Memorandum will select the Clark Tailings site, less than two miles south of the LAO OU, for disposal of the remaining materials. No further disposal of LAO materials at the Opportunity Ponds will occur if the Clark Tailings site is approved.

The initial Enforcement/Action Memorandum in 1991 found that use of the Clark Tailings as a disposal site to be infeasible due to the excessive time it would take to implement the necessary hydrologic, geotechnical, and institutional control evaluations. In January 1997, the Final Draft Corrective Measures Assessment (CMA) for the Old Butte-Silver Bow County Landfill/Clark Tailings

was submitted to the Montana Department of Environmental Quality (DEQ) Solid Waste Program by Butte-Silver Bow (BSB) County pursuant to existing solid waste requirements. The CMA provided adequate information to evaluate the suitability of the Clark Tailings as a potential disposal site for LAO wastes. The preferred alternative described in the CMA for closure of the Clark Tailings with wastes from LAO was found by DEQ to be technically feasible and DEQ will approve the plan. Additionally, property transfer and access issues were resolved by the PRPs. Use of the Clark Tailings as a disposal area for LAO wastes will allow for quicker completion of the second segment of waste removal at LAO and potentially provide better sequencing of other related projects such as the Butte Priority Soils and Streamside Tailings cleanups.

Overall, most of the verbal and written comments were generally supportive of the proposed action. Many comments received were related to the design of the proposed recreational complex. EPA has referred all comments on the recreational facility to BSB County and ARCO, as that activity is not part of the Superfund cleanup. In addition, many comments indicated concerns regarding the safety of transporting LAO wastes by truck to the Clark Tailings, the Old Landfill/Clark Tailings cap design, site monitoring during and after construction, and health and safety concerns with gasses being vented from the landfill.

II. BACKGROUND ON COMMUNITY INVOLVEMENT FOR THIS ACTION

EPA has conducted community involvement activities for this action in accordance with federal laws and EPA Superfund guidance documents. Copies of the documents related to this action were made available for public review at the Butte EPA Office at the Butte-Silver Bow County Courthouse, the Montana Tech Library, the EPA Records Center at the Federal Building in Helena, and the DEQ Solid Waste Program offices in the Metcalf Building in Helena. The full administrative record for the original Action Memorandum decision and this supplement are also available for review.

Due to the interrelationship of the closure of the Old Landfill/Clark Tailings with the possible disposal of LAO wastes at the Clark Tailings, all community relations activities for this action were coordinated with BSB County. The public, via a presentation to the BSB Council of Commissioners, was originally notified of the proposed project on February 5, 1997. Initial information on the proposed actions was released to the public in

a Site Update fact sheet sent to approximately 200 persons on EPA's mailing list on February 6, 1997. Additionally, an article regarding the proposed project appeared on the front page of the *Montana Standard* on February 6, 1997. A February 11, 1997, public informational meeting and a February 19, 1997, public hearing before the BSB Council of Commissioners were announced in a display advertisement in the *Montana Standard* starting on February 9, 1997. A public notice was also placed in the *Montana Standard* by EPA and BSB County on February 9 and February 16, 1997, which announced a public comment period on the proposed change. Among the public comments received at these meetings was a request to extend the written comment period beyond the original closing date of February 21, 1997. At the request of the BSB Council of Commissioners and due to the volume of verbal comments received from the public, EPA agreed that extending the written comment period was appropriate and the comment period was extended one week to February 28, 1997. In addition, another public informational meeting was held on February 25, 1997, and the BSB Council of Commissioners continued the February 19 public hearing on this matter on February 26, 1997. On March 5, 1997, the BSB Council of Commissioners recommended that DEQ approve the preferred corrective measures and closure plans for the Old Landfill/Clark Tailings, and recommended that EPA amend the LAO Action Memorandum as proposed.

III. SUMMARY OF COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD AND AGENCY RESPONSES

The public comment period on the proposed action was held from February 5, 1997, to February 28, 1997. Comments received during this time are summarized below. Part 1 addresses comments received during the public informational meetings and the public hearings. Responses to written comments received by EPA are provided in Part 2. Comments in each part are categorized by relevant topics.

Part 1: Summary and Response to Comments Received During the Public Informational Meetings and Public Hearing

Proposed Recreational Facility

(1) Many comments, questions, and suggestions were expressed on the proposed recreational facility to be constructed on the new disposal site.

EPA Response: EPA does not object to the proposed recreational facility, as it is consistent with appropriate closure requirements. However, questions regarding the type of facility to be constructed, facility design, infrastructure improvements, facility location, etc. should be addressed by BSB County and ARCO, as the recreational facility is not required by EPA and is not part of the Superfund remediation.

Waste Transportation Safety Concerns

(1) A comparison of the truck transport safety issues of this action versus the truck transport issues of the rejected plan to haul wastes from Streamside Tailings to Opportunity Ponds was requested.

EPA Response: The transportation route from LAO to the Old Landfill/Clark Tailings area crosses two public roads (Greenwood Ave. and Beeftrail Rd.) that are normally traveled by nearby residents. The remainder of the transportation route is an off-road haul of less than two miles through a non-residential corridor. This transport route will not change over the course of the project.

Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on and across major public roads at several locations. For example, travel from Streamside Tailings Subareas 1 and 2 would have involved hauling on several county roads and on Interstate 90. The hauling of wastes from various points along Silver Bow Creek would have required variable haul routes and the potential for considerable interference with the public would have occurred at varied and changing locations on and across public roads. However, these concerns can be addressed, for the most part, through appropriate health and safety measures. Nevertheless, public safety risks associated with over-the-road haul situations, such as the proposed haul route from Silver Bow Creek to Opportunity Ponds, are much higher compared to crossing situations, such as the haul on a dedicated road from LAO to the Clark Tailings.

(2) Concerns were expressed regarding road crossing safety and the decontamination of trucks. It was also suggested that a concrete pad be constructed at the crossing, that the haul

trucks should stop for traffic, and that rest breaks be given to flagmen to ensure safety.

EPA Response: EPA has assurances from ARCO that it is fully committed to making safety a priority on this project. The public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include the following elements:

- Two flagmen at each crossing with radio communication between construction traffic and each other;
- traffic signs and lights;
- trained flagmen and equipment operators;
- requirements for the public to stop every time at road crossings during construction work hours;
- provisions for cleaning and maintaining the road crossings;
- safe crossing markers on each side of the road crossings; and
- frequent evaluations of the effectiveness of crossing safety.

ARCO has stated that these policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. ARCO indicates that these resources concur that it is much more safe to request comparatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

The two flagmen at each crossing will communicate closely with each other and the equipment operators. The flagmen will complete and document daily inspections of the crossings. One flagman will be the leader at each crossing to avoid sending confusing signals to the public or equipment operators. Construction foremen and site supervisors will check on the flagmen regularly during the day and will provide them with breaks, as needed.

Crossing signs and lights will be sized and located according to the Federal Manual of Uniform Traffic Control Devices. Signs and lights will be decommissioned during non-working hours.

In consideration of public traffic needs, the crossing surfaces will be maintained to promote safe travel. This will include an overlay of asphalt or equivalent on the existing road. If the overlay surface is damaged, it will be repaired. Once hauling activities are complete, the crossing surface will be returned to its existing or better condition. The crossing will also be cleaned promptly in the unlikely event that materials from haul trucks are spilled on the crossings. However, care will be taken when loading haul trucks to ensure that material spillage on haul roads is minimal, if any. From past experience on the LAO project, spillage and tracking of materials from haul trucks has not been a problem. Additionally, most of the haul road is off-road where any minor material spills would not impact the public and would be cleaned up as needed. Decontamination of haul trucks is not expected to be necessary.

Capping of the Old Landfill/Clark Tailings

(1) Concerns were expressed as to whether the cap will be protective of human health and the environment.

EPA Response: The multi-media cap covering the Old Landfill/Clark Tailings will be approximately three feet thick and will prevent direct contact with people and the environment. The cap will be stabilized with a vegetative cover to help prevent erosion and will contain an infiltration barrier layer to limit movement of water through the wastes to groundwater. Regular maintenance will ensure continued cap integrity. The cap complies fully with

State solid waste requirements, and will be implemented and monitored by DEQ pursuant to those authorities.

(2) A concern was raised that the clay material used in the cap must be of sufficient specifications and consistent purity so as to hold up over time. Also it should be free of additional contaminants, a concern with respect to the clay materials below the Colorado Tailings which may be used in the construction of the Clark Tailings cap. There was also concern expressed about adequately separating the clay materials from the overlying tailings.

EPA Response: During construction, ARCO must meet the requirements of a stringent construction quality assurance plan, approved by the DEQ Solid Waste Program. This plan requires extensive testing of the capping materials to document that they meet the specifications.

It will be possible to separate much of the underlying clay from the tailings. This was the case during the July 1996 construction of test pads of these materials. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings and these materials will not be used for the infiltration barrier layer. Rather, these materials will be disposed with the other tailings. EPA and/or DEQ officials will be present during excavation and construction to ensure that only suitable materials are used for the infiltration barrier layer.

(3) Concerns and questions were raised regarding the potential for desiccation (drying) of the clay infiltration barrier, the effect of freeze/thaw cycles, cap maintenance, cap erosion, the potential for biointrusion (e.g., gopher holes), and differential settlement.

EPA Response: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils, allowing water to flow more freely through the soils. The clay materials to be used will exceed the hydraulic conductivity (resistance to flow) specification by more than an order of magnitude (more than 10 times) and, therefore, can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design

includes compacted waste below the infiltration barrier layer (to assist in preventing infiltration), a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential, and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

Maintenance of the cap will be provided as required by DEQ regulations. Erosion of a properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings and maximum slopes of 25%, a healthy vegetative cover should be relatively easy to establish and will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. Venting of the landfill gas and the installation of the clay cap will help mitigate this problem.

Biointrusion (e.g., ground squirrels) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on the landfill cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Site Monitoring

(1) There was concern that DEQ lacked the necessary resources to monitor and enforce the closure of the site.

EPA Response: EPA has agreed to assist DEQ in the oversight of construction activities at the Old Landfill/Clark Tailings closure. DEQ will still maintain the regulatory authority for the Old Landfill/Clark Tailings closure. EPA will oversee all activities associated with the removal and transportation of LAO materials to the Clark Tailings site.

(2) A question was raised about monitoring deeper levels of the groundwater aquifer below the existing tailings deposit and landfill area. The groundwater monitoring thus far has been at a shallow level.

EPA Response: The groundwater monitoring system in place at the site has been approved by DEQ and will detect any contamination emanating from the site. There is no "deep" aquifer separated from the alluvial aquifer that is currently being monitored. Should any contaminants be released, they would first be detected in the shallow portions of the aquifer.

Old Landfill Closure Concerns

(1) A concern was expressed that the Old Landfill already has overburden on it and the closure will place even more overburden on it, causing greater settlement.

EPA Response: The design of the Old Landfill/Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is intended to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the Old Landfill cap. Also, final grades on the landfill cap will be constructed with an average grade of 5% to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Off-Site Concerns

(1) Some residents near the site complained of sediments from the Clark Tailings being carried off-site by runoff from Timber Butte. These sediments have been deposited in a drainage downstream from the site.

EPA Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, erosion from the site will be mitigated. In the future, the amount of sediment emanating

from the Old Landfill/Clark Tailings site will be substantially less than it has been historically.

This area is not presently part of the Old Landfill/Clark Tailings site. The contaminated soils and sediments in this area that are not part of the Old Landfill/Clark Tailings closure plan will be addressed at a later date in the Record of Decision for the Butte Priority Soils Operable Unit.

(2) There was a concern expressed that more tailings were being placed within a floodplain.

EPA Response: The Clark Tailings and the LAO materials that will be added to it, are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch.

(3) Drinking water wells below the site have been abandoned due to high iron content and a concern was expressed whether other contaminants have been detected.

EPA Response: The citizen who expressed this concern has been provided with the data from the analysis of their well sample which was collected during the assessment of corrective measures for the Old Landfill/Clark Tailings. The data shows that there are not elevated concentrations of other contaminants in their well.

(4) The presence of exposed tailings and drainage on the east side of the site was expressed as a concern.

EPA Response: Proper drainage control on the site is critical to the success of the action. Engineered drainage structures, including ditches and ponds, have been incorporated into the design, including a ditch along the east edge of the Clark Tailings. To help prevent erosion, bare areas will be revegetated with grasses.

Part 2: Summary and Response to Written Comments Received During the Public Comment Period

Letters from the Citizens' Technical Environmental Committee dated February 23 and March 4, 1997

(1) There is a citizen concern that the new repository is in a floodplain and that two different streams run through the property. In addition, there was concern that the site has a considerable potential for mobilizing contaminants.

EPA Response: The Clark Tailings and the LAO materials that will be added to it are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch. On-site ditches will be widened and recontoured as part of the revised site drainage plan. To help prevent erosion and sedimentation, bare areas will be revegetated.

Under present site conditions, EPA agrees that there is a potential for mobilizing contaminants. Portions of the Clark Tailings are exposed and therefore subject to transport via wind and water erosion, and possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(2) A citizen expressed concern that there is a high incidence of lung disease in her neighborhood and believes this to be attributable to air quality problems with the Clark Tailings. The prospect of additional tailings in the area does not please her, no matter what measures are taken to engineer their safety.

EPA Response: EPA suggests that this concern be brought to the attention of the Butte-Silver Bow Health Department.

Any air quality problems related to the Clark Tailings will be mitigated by their closure.

(3) Some citizens expressed the belief that their input would be of no avail, feeling that the decision was already made and public comment would not affect it.

EPA Response: Certainly, when EPA proposes a remedial or removal action, EPA believes the proposal has merit and is likely to become an approved action unless there are substantial concerns expressed by the pubic, local government or potentially responsible parties that cannot be adequately addressed. The concerns raised during the public participation process for this proposed action were substantial. However, EPA, in cooperation with the BSB government and DEQ, was able to make additions to the plan which EPA believes adequately addresses these concerns. Therefore, EPA believes it is justified to approve the proposed actions. The decision to approve the proposal was made after public input and approval would not have been given if public concerns could not have been addressed. In regard to the effect of public comment, the public concerns expressed during the public participation process were extremely valuable and were used by EPA to make important changes to the proposed action.

(4) There is a concern that the Old Landfill has not been compacted and a question was raised as to how the proposed cap will ensure adequate compaction so that the cap doesn't crack and have to be replaced at a later time, at taxpayer expense.

EPA Response: The landfill wastes were compacted during placement. However, as with any municipal solid waste landfill, there may be localized differential settlement. Therefore, slopes on the landfill were designed to accommodate some differential settlement and still provide positive drainage from the site. While differential settlement may require localized repairs conducted as part of regular maintenance at the facility, it will not require replacing the entire landfill cap at a later time. The cap will be installed in accordance with strict compaction specifications, but still may require periodic maintenance and repairs caused by differential settlement.

(5) Concerns were raised regarding Volatile Organic Compounds (VOCs) emanating from the Old Landfill and the health and safety of children playing near the area where landfill gases are being vented.

EPA Response: The levels of VOCs emanating from the landfill and the venting system is not expected to cause any human health concerns. However, the gases will be monitored and, if any problems are noted, a contingency plan will be developed and implemented to correct the problem. Greater detail regarding this question is provided in the response to Butte-Silver Bow County Board of Health question #4 in Part 2 of this Responsiveness Summary.

(6) A question was raised as to whether the comment period was shortened and the planning process speeded up such that there is an underlying benefit to ARCO with respect to the Natural Resource Damage lawsuit currently underway.

EPA Response: From EPA's perspective, the short comment period and the desire to reach a decision on the proposed action as quickly as possible had no relationship with the Natural Resource Damage lawsuit. EPA expedited the decision-making process because of its interest in expediting the removal of LAO wastes so that other Superfund actions in the Clark Fork River basin might move forward without delay.

(7) CTEC expressed the belief that EPA public comment hearings should not be combined with BSB County Council of Commissioners public hearings.

EPA Response: A decision was made in March 1995 by EPA and DEQ to integrate the closure of the Old Butte Silver Bow Landfill and the Clark Tailings area. As a result of the integrated closure and the subsequent proposal to dispose of LAO wastes at the Clark Tailings site, EPA, DEQ, and BSB County became jointly responsible for the activities necessary to carry out the proposal. The parties involved discussed the manner in which the public comment process should be conducted and decided that it would be more effective and less confusing to the public if the public participation process was conducted jointly by all parties. Although CTEC is expressing their belief that this was a mistake, EPA disagrees and believes that the public

participation process was properly handled as a joint effort.

(8) According to CTEC, there was the perception that EPA had already decided to go ahead with the proposed action whether citizens supported it or not.

EPA Response: Please refer to the response for comment 3, Part 2 above.

Letter from the Butte-Silver Bow Health Department to Chief Executive Jack Lynch and the Butte-Silver Bow Council of Commissioners dated February 19, 1997

(1) The Board of Health (BOH) recommends that an Ambient Air Quality Monitoring Plan be designed and implemented, which will be protective of human health and the environment, during all phases of excavation, transportation, and construction.

EPA Response: EPA has directed ARCO to conduct an ambient air quality monitoring program for the proposed activities, and this plan will be included in design documents. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

(2) The BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems.

EPA Response: As soon as it becomes available, a telephone number and instructions for reporting dust problems will be published in the Montana Standard. The contact for reporting dust problems will be active at all times including weekends and holidays.

(3) There is a concern that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days. The BOH recommends that the Ambient Air Quality Monitoring Plan include a dust response plan whereby fugitive dust problems will be responded to in a timely manner.

EPA Response: The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

(4) The Final Draft CMA states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the Old Landfill in its peak year of gas production. The BOH questions whether or not the projected 8.5 tons per year of NMOCs will endanger the public's health and safety on site and/or downwind in the nearby communities. The BOH recommends that a contingency plan, including specified response actions for gas venting, be prepared in advance of construction should it later be realized that alternative gas venting measures are necessary.

EPA Response: The 8.5 tons per year reported in the Final Draft CMA is based on EPA's conservative default values for NMOC concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the DEQ Solid Waste Program if the facility may require an air quality permit based on default values. The intent of utilizing the default values was to show that even with the conservative default values, the Old Landfill will not approach regulatory action levels, including the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year. Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995 and the gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or

not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system will be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

(5) Will there be any odors associated with respect to the 8.5 tons per year of NMOC emissions?

EPA Response: Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting and better dispersion.

(6) What will be the respective roles of EPA and DEQ during the project?

EPA Response: EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-

1150, ext. 258) is the designated point of contact for EPA. DEQ is the lead agency for placement of the materials at the Clark Tailings, installation of the cap over the Clark Tailings and the Old Landfill, and installation of the gas venting system. Pat Crowley (444-5[illegible]) is the DEQ point of contact. In this role, DEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Old Landfill/Clark Tailings area and subsequent Closure and Corrective Measures Plan. During placement of the materials at the Clark Tailings and installation of the cap, DEQ will be the lead agency. However, DEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. DEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. DEQ must also approve the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

(7) What will be the role of BSB during construction?

EPA Response: BSB County does not have a direct role during construction. BSB County, however, does have review and approval authority during the design process, as a co-permit applicant with ARCO. During construction, BSB will have access to the site and can voice its concerns through EPA and/or DEQ. Any changes to the design during the construction process must be approved by DEQ. At BSB County's request, DEQ has agreed to involve BSB in the approval process to any proposed changes to the design.

(8) Why is no lime, limestone, or limerock being used in any of the proposed caps?

EPA Response: No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravel is specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying

mine wastes. Reactive materials such as lime and limestone will degrade over time, compromising their effectiveness. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

(9) How will the Old Landfill/Clark Tailings caps be designed and constructed so that buildings, trees or shrubs, underground utilities, etc. can be put on the site without compromising the integrity of the cap?

EPA Response: The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

Structure foundations may require excavation of the infiltration barrier layer. Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility. If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

(10) How will facility operators be able to retrofit new or replacement structures/landscaping once construction is complete without endangering the integrity of the cap?

EPA Response: Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings

will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

(11) Isn't the purpose of the 18-inch clay infiltration barrier to prevent water infiltration? Where is the water draining to as it flows through the coarse media above the clay layer?

EPA Response: The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the clay materials used for the infiltration barrier layer are not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer discharges to surface water ditches around the perimeter of the site.

(12) Will it be logistically feasible to segregate the Colorado Tailings from the silts and clay below for use in the Clark Tailings cap? What levels will be used to determine acceptable levels of metals? What criteria will be used to approve the use of these materials? If there is an inadequate supply of silt and clay material below the Colorado Tailings, will there still be enough material available from the Hollow borrow pit?

EPA Response: Although there was some success in separating the underlying clay from the tailings during the construction of test pads of these materials in July 1996, EPA has some concern that this will not be possible in full-scale operation. As a result, EPA will closely monitor the segregation of the clay and if it is not feasible, EPA will require ARCO to obtain an alternate clay source. ARCO has made a commitment to EPA that only suitable materials will be used for the infiltration barrier layer.

An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. DEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

(13) The Final Draft CMA states that the proposed lined pond south of the tailings may also be used as a source for irrigation water. Will this pond be adequate to maintain the necessary vegetation caps during periods of low flow? What is the alternative source for irrigation water?

EPA Response: Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

(14) Who will be responsible for repairing the caps in the event of catastrophic failure of the cap and any associated cleanup? Are any of the subject properties located in a designated floodplain?

EPA Response: By private agreement between BSB and ARCO, ARCO, the identified PRP for this action, remains fully responsible for all aspects of this project. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

(15) It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this closure action?

EPA Response: There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other Superfund activities, most likely as part of the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Area Superfund Site.

(16) What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) during and after construction is complete?

EPA Response: ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

(17) The BOH commented that the public comment period was too short.

EPA Response: In response to this comment, the Council of Commissioners and EPA extended the deadline for written comment from February 21 to February 28, 1997. In addition, a second community meeting was held at the Butte Community Center on February 25 and the public hearing on February 19 was continued to February 26, 1997.

RESPONSIVENESS SUMMARY

FOR THE

AMENDED ENFORCEMENT/ACTION MEMORANDUM

CHANGE IN SCOPE OF RESPONSE

FOR THE

NON-TIME-CRITICAL REMOVAL ACTION

AT THE

LOWER AREA ONE OPERABLE UNIT
SILVER BOW CREEK/BUTTE AREA (ORIGINAL PORTION) SUPERFUND SITE
BUTTE, MONTANA

MARCH 1997

I. OVERVIEW

The U.S. Environmental Protection Agency (EPA) has prepared this Responsiveness Summary in conjunction with the March 1997 Amended Enforcement/Action Memorandum to document and respond to issues and comments raised by the public regarding a Change in Scope of Response for the Non-Time-Critical Removal Action at the Lower Area One (LAO) Operable Unit (OU) of the Silver Bow Creek/Butte Area (Original Portion) Superfund Site in Butte, Montana. The Change in Scope of Response involves the use of an alternative disposal site for the remaining LAO wastes, which includes wastes from the Colorado Tailings and the Butte Reduction Works areas that will be excavated as part of the LAO cleanup action.

The removal action is still intended primarily to mitigate potential threats to human health and the environment from inorganic contaminants, particularly arsenic, cadmium, copper, lead, and zinc, and may necessarily address organic contamination associated with the inorganic contamination. Under the initial Enforcement/Action Memorandum dated December 31, 1991, and described in the *LAO OU Final Expedited Response Action Work Plan* dated April 30, 1992, the first phase of the response action consists of two basic removal segments. The first segment, removal and disposal of tailings, metals-contaminated soils, debris, and railroad embankment materials in the unsaturated zone, was completed in 1994. The materials excavated in the first segment were transported by rail approximately 25 miles to the Opportunity Ponds near Anaconda, Montana. Under the initial Enforcement/Action Memorandum and the Work Plan, the saturated materials removed as part of the second segment would also be transported to the Opportunity Ponds disposal site. Some pilot excavation and removal was done in 1995 and 1996, with disposal occurring at the Opportunity Ponds. If approved, the March 1997 Amended Enforcement/Action Memorandum will select the Clark Tailings site, less than two miles south of the LAO OU, for disposal of the remaining materials. No further disposal of LAO materials at the Opportunity Ponds will occur if the Clark Tailings site is approved.

The initial Enforcement/Action Memorandum in 1991 found that use of the Clark Tailings as a disposal site to be infeasible due to the excessive time it would take to implement the necessary hydrologic, geotechnical, and institutional control evaluations. In January 1997, the Final Draft Corrective Measures Assessment (CMA) for the Old Butte-Silver Bow County Landfill/Clark Tailings

was submitted to the Montana Department of Environmental Quality (DEQ) Solid Waste Program by Butte-Silver Bow (BSB) County pursuant to existing solid waste requirements. The CMA provided adequate information to evaluate the suitability of the Clark Tailings as a potential disposal site for LAO wastes. The preferred alternative described in the CMA for closure of the Clark Tailings with wastes from LAO was found by DEQ to be technically feasible and DEQ will approve the plan. Additionally, property transfer and access issues were resolved by the PRPs. Use of the Clark Tailings as a disposal area for LAO wastes will allow for quicker completion of the second segment of waste removal at LAO and potentially provide better sequencing of other related projects such as the Butte Priority Soils and Streamside Tailings cleanups.

Overall, most of the verbal and written comments were generally supportive of the proposed action. Many comments received were related to the design of the proposed recreational complex. EPA has referred all comments on the recreational facility to BSB County and ARCO, as that activity is not part of the Superfund cleanup. In addition, many comments indicated concerns regarding the safety of transporting LAO wastes by truck to the Clark Tailings, the Old Landfill/Clark Tailings cap design, site monitoring during and after construction, and health and safety concerns with gasses being vented from the landfill.

II. BACKGROUND ON COMMUNITY INVOLVEMENT FOR THIS ACTION

EPA has conducted community involvement activities for this action in accordance with federal laws and EPA Superfund guidance documents. Copies of the documents related to this action were made available for public review at the Butte EPA Office at the Butte-Silver Bow County Courthouse, the Montana Tech Library, the EPA Records Center at the Federal Building in Helena, and the DEQ Solid Waste Program offices in the Metcalf Building in Helena. The full administrative record for the original Action Memorandum decision and this supplement are also available for review.

Due to the interrelationship of the closure of the Old Landfill/Clark Tailings with the possible disposal of LAO wastes at the Clark Tailings, all community relations activities for this action were coordinated with BSB County. The public, via a presentation to the BSB Council of Commissioners, was originally notified of the proposed project on February 5, 1997. Initial information on the proposed actions was released to the public in

a Site Update fact sheet sent to approximately 200 persons on EPA's mailing list on February 6, 1997. Additionally, an article regarding the proposed project appeared on the front page of the *Montana Standard* on February 6, 1997. A February 11, 1997, public informational meeting and a February 19, 1997, public hearing before the BSB Council of Commissioners were announced in a display advertisement in the *Montana Standard* starting on February 9, 1997. A public notice was also placed in the *Montana Standard* by EPA and BSB County on February 9 and February 16, 1997, which announced a public comment period on the proposed change. Among the public comments received at these meetings was a request to extend the written comment period beyond the original closing date of February 21, 1997. At the request of the BSB Council of Commissioners and due to the volume of verbal comments received from the public, EPA agreed that extending the written comment period was appropriate and the comment period was extended one week to February 28, 1997. In addition, another public informational meeting was held on February 25, 1997, and the BSB Council of Commissioners continued the February 19 public hearing on this matter on February 26, 1997. On March 5, 1997, the BSB Council of Commissioners recommended that DEQ approve the preferred corrective measures and closure plans for the Old Landfill/Clark Tailings, and recommended that EPA amend the LAO Action Memorandum as proposed.

III. SUMMARY OF COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD AND AGENCY RESPONSES

The public comment period on the proposed action was held from February 5, 1997, to February 28, 1997. Comments received during this time are summarized below. Part 1 addresses comments received during the public informational meetings and the public hearings. Responses to written comments received by EPA are provided in Part 2. Comments in each part are categorized by relevant topics.

Part 1: Summary and Response to Comments Received During the Public Informational Meetings and Public Hearing

Proposed Recreational Facility

(1) Many comments, questions, and suggestions were expressed on the proposed recreational facility to be constructed on the new disposal site.

EPA Response: EPA does not object to the proposed recreational facility, as it is consistent with appropriate closure requirements. However, questions regarding the type of facility to be constructed, facility design, infrastructure improvements, facility location, etc. should be addressed by BSB County and ARCO, as the recreational facility is not required by EPA and is not part of the Superfund remediation.

Waste Transportation Safety Concerns

(1) A comparison of the truck transport safety issues of this action versus the truck transport issues of the rejected plan to haul wastes from Streamside Tailings to Opportunity Ponds was requested.

EPA Response: The transportation route from LAO to the Old Landfill/Clark Tailings area crosses two public roads (Greenwood Ave. and Beeftrail Rd.) that are normally traveled by nearby residents. The remainder of the transportation route is an off-road haul of less than two miles through a non-residential corridor. This transport route will not change over the course of the project.

Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on and across major public roads at several locations. For example, travel from Streamside Tailings Subareas 1 and 2 would have involved hauling on several county roads and on Interstate 90. The hauling of wastes from various points along Silver Bow Creek would have required variable haul routes and the potential for considerable interference with the public would have occurred at varied and changing locations on and across public roads. However, these concerns can be addressed, for the most part, through appropriate health and safety measures. Nevertheless, public safety risks associated with over-the-road haul situations, such as the proposed haul route from Silver Bow Creek to Opportunity Ponds, are much higher compared to crossing situations, such as the haul on a dedicated road from LAO to the Clark Tailings.

(2) Concerns were expressed regarding road crossing safety and the decontamination of trucks. It was also suggested that a concrete pad be constructed at the crossing, that the haul

trucks should stop for traffic, and that rest breaks be given to flagmen to ensure safety.

EPA Response: EPA has assurances from ARCO that it is fully committed to making safety a priority on this project. The public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include the following elements:

- Two flagmen at each crossing with radio communication between construction traffic and each other;
- traffic signs and lights;
- trained flagmen and equipment operators;
- requirements for the public to stop every time at road crossings during construction work hours;
- provisions for cleaning and maintaining the road crossings;
- safe crossing markers on each side of the road crossings; and
- frequent evaluations of the effectiveness of crossing safety.

ARCO has stated that these policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. ARCO indicates that these resources concur that it is much more safe to request comparatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

The two flagmen at each crossing will communicate closely with each other and the equipment operators. The flagmen will complete and document daily inspections of the crossings. One flagman will be the leader at each crossing to avoid sending confusing signals to the public or equipment operators. Construction foremen and site supervisors will check on the flagmen regularly during the day and will provide them with breaks, as needed.

Crossing signs and lights will be sized and located according to the Federal Manual of Uniform Traffic Control Devices. Signs and lights will be decommissioned during non-working hours.

In consideration of public traffic needs, the crossing surfaces will be maintained to promote safe travel. This will include an overlay of asphalt or equivalent on the existing road. If the overlay surface is damaged, it will be repaired. Once hauling activities are complete, the crossing surface will be returned to its existing or better condition. The crossing will also be cleaned promptly in the unlikely event that materials from haul trucks are spilled on the crossings. However, care will be taken when loading haul trucks to ensure that material spillage on haul roads is minimal, if any. From past experience on the LAO project, spillage and tracking of materials from haul trucks has not been a problem. Additionally, most of the haul road is off-road where any minor material spills would not impact the public and would be cleaned up as needed. Decontamination of haul trucks is not expected to be necessary.

Capping of the Old Landfill/Clark Tailings

(1) Concerns were expressed as to whether the cap will be protective of human health and the environment.

EPA Response: The multi-media cap covering the Old Landfill/Clark Tailings will be approximately three feet thick and will prevent direct contact with people and the environment. The cap will be stabilized with a vegetative cover to help prevent erosion and will contain an infiltration barrier layer to limit movement of water through the wastes to groundwater. Regular maintenance will ensure continued cap integrity. The cap complies fully with

State solid waste requirements, and will be implemented and monitored by DEQ pursuant to those authorities.

(2) A concern was raised that the clay material used in the cap must be of sufficient specifications and consistent purity so as to hold up over time. Also it should be free of additional contaminants, a concern with respect to the clay materials below the Colorado Tailings which may be used in the construction of the Clark Tailings cap. There was also concern expressed about adequately separating the clay materials from the overlying tailings.

EPA Response: During construction, ARCO must meet the requirements of a stringent construction quality assurance plan, approved by the DEQ Solid Waste Program. This plan requires extensive testing of the capping materials to document that they meet the specifications.

It will be possible to separate much of the underlying clay from the tailings. This was the case during the July 1996 construction of test pads of these materials. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings and these materials will not be used for the infiltration barrier layer. Rather, these materials will be disposed with the other tailings. EPA and/or DEQ officials will be present during excavation and construction to ensure that only suitable materials are used for the infiltration barrier layer.

(3) Concerns and questions were raised regarding the potential for desiccation (drying) of the clay infiltration barrier, the effect of freeze/thaw cycles, cap maintenance, cap erosion, the potential for biointrusion (e.g., gopher holes), and differential settlement.

EPA Response: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils, allowing water to flow more freely through the soils. The clay materials to be used will exceed the hydraulic conductivity (resistance to flow) specification by more than an order of magnitude (more than 10 times) and, therefore, can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design

includes compacted waste below the infiltration barrier layer (to assist in preventing infiltration), a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential, and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

Maintenance of the cap will be provided as required by DEQ regulations. Erosion of a properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings and maximum slopes of 25%, a healthy vegetative cover should be relatively easy to establish and will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. Venting of the landfill gas and the installation of the clay cap will help mitigate this problem.

Biointrusion (e.g., ground squirrels) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on the landfill cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Site Monitoring

(1) There was concern that DEQ lacked the necessary resources to monitor and enforce the closure of the site.

EPA Response: EPA has agreed to assist DEQ in the oversight of construction activities at the Old Landfill/Clark Tailings closure. DEQ will still maintain the regulatory authority for the Old Landfill/Clark Tailings closure. EPA will oversee all activities associated with the removal and transportation of LAO materials to the Clark Tailings site.

(2) A question was raised about monitoring deeper levels of the groundwater aquifer below the existing tailings deposit and landfill area. The groundwater monitoring thus far has been at a shallow level.

EPA Response: The groundwater monitoring system in place at the site has been approved by DEQ and will detect any contamination emanating from the site. There is no "deep" aquifer separated from the alluvial aquifer that is currently being monitored. Should any contaminants be released, they would first be detected in the shallow portions of the aquifer.

Old Landfill Closure Concerns

(1) A concern was expressed that the Old Landfill already has overburden on it and the closure will place even more overburden on it, causing greater settlement.

EPA Response: The design of the Old Landfill/Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials is intended to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the Old Landfill cap. Also, final grades on the landfill cap will be constructed with an average grade of 5% to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Off-Site Concerns

(1) Some residents near the site complained of sediments from the Clark Tailings being carried off-site by runoff from Timber Butte. These sediments have been deposited in a drainage downstream from the site.

EPA Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, erosion from the site will be mitigated. In the future, the amount of sediment emanating

from the Old Landfill/Clark Tailings site will be substantially less than it has been historically.

This area is not presently part of the Old Landfill/Clark Tailings site. The contaminated soils and sediments in this area that are not part of the Old Landfill/Clark Tailings closure plan will be addressed at a later date in the Record of Decision for the Butte Priority Soils Operable Unit.

(2) There was a concern expressed that more tailings were being placed within a floodplain.

EPA Response: The Clark Tailings and the LAO materials that will be added to it, are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch.

(3) Drinking water wells below the site have been abandoned due to high iron content and a concern was expressed whether other contaminants have been detected.

EPA Response: The citizen who expressed this concern has been provided with the data from the analysis of their well sample which was collected during the assessment of corrective measures for the Old Landfill/Clark Tailings. The data shows that there are not elevated concentrations of other contaminants in their well.

(4) The presence of exposed tailings and drainage on the east side of the site was expressed as a concern.

EPA Response: Proper drainage control on the site is critical to the success of the action. Engineered drainage structures, including ditches and ponds, have been incorporated into the design, including a ditch along the east edge of the Clark Tailings. To help prevent erosion, bare areas will be revegetated with grasses.

Part 2: Summary and Response to Written Comments Received During the Public Comment Period

Letters from the Citizens' Technical Environmental Committee dated February 23 and March 4, 1997

(1) There is a citizen concern that the new repository is in a floodplain and that two different streams run through the property. In addition, there was concern that the site has a considerable potential for mobilizing contaminants.

EPA Response: The Clark Tailings and the LAO materials that will be added to it are not in any significant floodplain area (Silver Bow Creek). The design of the Old Landfill/Clark Tailings closure will mitigate and minimize risk from the watershed where the Clark Tailings are presently located. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (a catch basin) before being discharged to Grove Gulch. On-site ditches will be widened and recontoured as part of the revised site drainage plan. To help prevent erosion and sedimentation, bare areas will be revegetated.

Under present site conditions, EPA agrees that there is a potential for mobilizing contaminants. Portions of the Clark Tailings are exposed and therefore subject to transport via wind and water erosion, and possible infiltration of contaminants into the subsurface. However, the closure plan for the Old Landfill/Clark Tailings will limit the potential for mobilizing contaminants by placing all exposed waste materials beneath an engineered cap, away from the environment. The cap design will also limit infiltration of water through the wastes, helping to prevent groundwater contamination.

(2) A citizen expressed concern that there is a high incidence of lung disease in her neighborhood and believes this to be attributable to air quality problems with the Clark Tailings. The prospect of additional tailings in the area does not please her, no matter what measures are taken to engineer their safety.

EPA Response: EPA suggests that this concern be brought to the attention of the Butte-Silver Bow Health Department.

Any air quality problems related to the Clark Tailings will be mitigated by their closure.

(3) Some citizens expressed the belief that their input would be of no avail, feeling that the decision was already made and public comment would not affect it.

EPA Response: Certainly, when EPA proposes a remedial or removal action, EPA believes the proposal has merit and is likely to become an approved action unless there are substantial concerns expressed by the pubic, local government or potentially responsible parties that cannot be adequately addressed. The concerns raised during the public participation process for this proposed action were substantial. However, EPA, in cooperation with the BSB government and DEQ, was able to make additions to the plan which EPA believes adequately addresses these concerns. Therefore, EPA believes it is justified to approve the proposed actions. The decision to approve the proposal was made after public input and approval would not have been given if public concerns could not have been addressed. In regard to the effect of public comment, the public concerns expressed during the public participation process were extremely valuable and were used by EPA to make important changes to the proposed action.

(4) There is a concern that the Old Landfill has not been compacted and a question was raised as to how the proposed cap will ensure adequate compaction so that the cap doesn't crack and have to be replaced at a later time, at taxpayer expense.

EPA Response: The landfill wastes were compacted during placement. However, as with any municipal solid waste landfill, there may be localized differential settlement. Therefore, slopes on the landfill were designed to accommodate some differential settlement and still provide positive drainage from the site. While differential settlement may require localized repairs conducted as part of regular maintenance at the facility, it will not require replacing the entire landfill cap at a later time. The cap will be installed in accordance with strict compaction specifications, but still may require periodic maintenance and repairs caused by differential settlement.

(5) Concerns were raised regarding Volatile Organic Compounds (VOCs) emanating from the Old Landfill and the health and safety of children playing near the area where landfill gases are being vented.

EPA Response: The levels of VOCs emanating from the landfill and the venting system is not expected to cause any human health concerns. However, the gases will be monitored and, if any problems are noted, a contingency plan will be developed and implemented to correct the problem. Greater detail regarding this question is provided in the response to Butte-Silver Bow County Board of Health question #4 in Part 2 of this Responsiveness Summary.

(6) A question was raised as to whether the comment period was shortened and the planning process speeded up such that there is an underlying benefit to ARCO with respect to the Natural Resource Damage lawsuit currently underway.

EPA Response: From EPA's perspective, the short comment period and the desire to reach a decision on the proposed action as quickly as possible had no relationship with the Natural Resource Damage lawsuit. EPA expedited the decision-making process because of its interest in expediting the removal of LAO wastes so that other Superfund actions in the Clark Fork River basin might move forward without delay.

(7) CTEC expressed the belief that EPA public comment hearings should not be combined with BSB County Council of Commissioners public hearings.

EPA Response: A decision was made in March 1995 by EPA and DEQ to integrate the closure of the Old Butte Silver Bow Landfill and the Clark Tailings area. As a result of the integrated closure and the subsequent proposal to dispose of LAO wastes at the Clark Tailings site, EPA, DEQ, and BSB County became jointly responsible for the activities necessary to carry out the proposal. The parties involved discussed the manner in which the public comment process should be conducted and decided that it would be more effective and less confusing to the public if the public participation process was conducted jointly by all parties. Although CTEC is expressing their belief that this was a mistake, EPA disagrees and believes that the public

participation process was properly handled as a joint effort.

(8) According to CTEC, there was the perception that EPA had already decided to go ahead with the proposed action whether citizens supported it or not.

EPA Response: Please refer to the response for comment 3, Part 2 above.

Letter from the Butte-Silver Bow Health Department to Chief Executive Jack Lynch and the Butte-Silver Bow Council of Commissioners dated February 19, 1997

(1) The Board of Health (BOH) recommends that an Ambient Air Quality Monitoring Plan be designed and implemented, which will be protective of human health and the environment, during all phases of excavation, transportation, and construction.

EPA Response: EPA has directed ARCO to conduct an ambient air quality monitoring program for the proposed activities, and this plan will be included in design documents. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

(2) The BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems.

EPA Response: As soon as it becomes available, a telephone number and instructions for reporting dust problems will be published in the Montana Standard. The contact for reporting dust problems will be active at all times including weekends and holidays.

(3) There is a concern that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days. The BOH recommends that the Ambient Air Quality Monitoring Plan include a dust response plan whereby fugitive dust problems will be responded to in a timely manner.

EPA Response: The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

(4) The Final Draft CMA states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the Old Landfill in its peak year of gas production. The BOH questions whether or not the projected 8.5 tons per year of NMOCs will endanger the public's health and safety on site and/or downwind in the nearby communities. The BOH recommends that a contingency plan, including specified response actions for gas venting, be prepared in advance of construction should it later be realized that alternative gas venting measures are necessary.

EPA Response: The 8.5 tons per year reported in the Final Draft CMA is based on EPA's conservative default values for NMOC concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the DEQ Solid Waste Program if the facility may require an air quality permit based on default values. The intent of utilizing the default values was to show that even with the conservative default values, the Old Landfill will not approach regulatory action levels, including the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year. Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995 and the gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or

not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system will be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

(5) Will there be any odors associated with respect to the 8.5 tons per year of NMOC emissions?

EPA Response: Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting and better dispersion.

(6) What will be the respective roles of EPA and DEQ during the project?

EPA Response: EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-

1150, ext. 258) is the designated contact for EPA. DEQ is the lead agency for placement of the materials at the Clark Tailings, installation of the cap over the Clark Tailings and the landfill, and installation of the gas venting system. Pat Crowley (444-5294) is the DEQ point of contact. In this role, DEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Old Landfill/Clark Tailings area and subsequent Closure and Corrective Measures Plan. During placement of the materials at the Clark Tailings and installation of the cap, DEQ will be the lead agency. However, DEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. DEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. DEQ must also approve the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

(7) What will be the role of BSB during construction?

EPA Response: BSB County does not have a direct role during construction. BSB County, however, does have review and approval authority during the design process, as a co-permit applicant with ARCO. During construction, BSB will have access to the site and can voice its concerns through EPA and/or DEQ. Any changes to the design during the construction process must be approved by DEQ. At BSB County's request, DEQ has agreed to involve BSB in the approval process to any proposed changes to the design.

(8) Why isn't lime, limestone, or limerock being used in any of the proposed caps?

EPA Response: No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravel is specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying

mine wastes. Reactive materials such as lime and limestone will degrade over time, compromising their effectiveness. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

(9) How will the Old Landfill/Clark Tailings caps be designed and constructed so that buildings, trees or shrubs, underground utilities, etc. can be put on the site without compromising the integrity of the cap?

EPA Response: The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

Structure foundations may require excavation of the infiltration barrier layer. Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility. If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

(10) How will facility operators be able to retrofit new or replacement structures/landscaping once construction is complete without endangering the integrity of the cap?

EPA Response: Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings

will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

(11) Isn't the purpose of the 18-inch clay infiltration barrier to prevent water infiltration? Where is the water draining to as it flows through the coarse media above the clay layer?

EPA Response: The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the clay materials used for the infiltration barrier layer are not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer discharges to surface water ditches around the perimeter of the site.

(12) Will it be logistically feasible to segregate the Colorado Tailings from the silts and clay below for use in the Clark Tailings cap? What levels will be used to determine acceptable levels of metals? What criteria will be used to approve the use of these materials? If there is an inadequate supply of silt and clay material below the Colorado Tailings, will there still be enough material available from the Hollow borrow pit?

EPA Response: Although there was some success in separating the underlying clay from the tailings during the construction of test pads of these materials in July 1996, EPA has some concern that this will not be possible in full-scale operation. As a result, EPA will closely monitor the segregation of the clay and if it is not feasible, EPA will require ARCO to obtain an alternate clay source. ARCO has made a commitment to EPA that only suitable materials will be used for the infiltration barrier layer.

An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. DEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

(13) The Final Draft CMA states that the proposed lined pond south of the tailings may also be used as a source for irrigation water. Will this pond be adequate to maintain the necessary vegetation caps during periods of low flow? What is the alternative source for irrigation water?

EPA Response: Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

(14) Who will be responsible for repairing the caps in the event of catastrophic failure of the cap and any associated cleanup? Are any of the subject properties located in a designated floodplain?

EPA Response: By private agreement between BSB and ARCO, ARCO, the identified PRP for this action, remains fully responsible for all aspects of this project. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

(15) It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this closure action?

EPA Response: There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other Superfund activities, most likely as part of the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Area Superfund Site.

(16) What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) during and after construction is complete?

EPA Response: ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

(17) The BOH commented that the public comment period was too short.

EPA Response: In response to this comment, the Council of Commissioners and EPA extended the deadline for written comment from February 21 to February 28, 1997. In addition, a second community meeting was held at the Butte Community Center on February 25 and the public hearing on February 19 was continued to February 26, 1997.

BUTTE-SILVER BOW

Office of Council of Commissioners
Courthouse
Butte, Montana 59701

RECEIVED
MAR 12 1997
MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

MEMO

TO: U.S. Environmental Protection Agency
Ron Bertram, Remedial Project Manager

Montana Department of Environmental Quality PAC
Pat Crowley, Project Manager

FROM: Butte-Silver Bow Local Government
Chief Executive Jack Lynch and Council of Commissioners

Jon Sesso for Lynch + Comm

DATE: March 10, 1997

RE: Attached are the documents that represent Butte-Silver Bow's comments on the Combined Closure of the Old Butte Landfill and the Clark Tailings, the use of Clark Tailings Area as a Repository for Colorado Tailings, and the final land use plan for the area

A) Council Communication No. 9514

-- Action on this communication in the form of a **MOTION** at the March 5, 1997 regular meeting (see Council report) authorizes submission of these comments to EPA and DEQ, and presents positive recommendations to proceed with the project as understood in the technical documents.

B) Attachments to Council Communication No. 9514

-- All public comments, letters, and documents received by the County, including testimony transcripts of the public hearings.

1. Council Communication No. 9448 (February 3, 1997)
2. Public Testimony Transcript -- Feb. 19 Council Hearing
3. Public Testimony Transcript -- Feb. 26 Council Hearing
4. BSB Board of Health letter with 17 technical questions -- 2/19/1997
5. Jim Kuipers, CTEC Technical Advisor, letter with specific concerns -- 2/14/97
6. Brad Archibald, BSB Consultant, Letter to BSB Board of Health in response to 17 questions and several concerns raised by Jim Kuipers -- 3/2/97
7. Endorsement letter from BSB Board of Health -- 3/4/97
8. Public Safety Fact Sheet in response to concerns about haul route and traffic

9. Draft "Letter of Intent" from BSB to ARCO on commitments to execute reclamation plans, build recreational facility, manage long-term monitoring, operation and maintenance, and assume liability for future remediation. Council authorized execution of this letter on March 5, 1997

10. Updated schedule of events during review and approval process
11. FACT SHEET: Common Technical Questions and Concerns (3/5/97)
12. Chuck Stillwell (ARCO) letter to Ron Bertram re: draft responses to comments received from the public -- 3/3/97
13. 11 communications from individual citizens and groups with various comments, mostly regarding aspects of the land use plan, public safety, oversight, off-site transportation, and other issues covered in correspondence with Board of Health and draft Letter of Intent.

ATTACHMENT B-13

Communications from Citizens on Clark Tailings Project

1. Endorsement letter from BSB Chamber of Commerce -- 2/28/97
2. Group of 10 support letters suggesting first-class, high quality toddler playground
3. Jana Faught, emphasizing amphitheater
4. Fritz Apostel, memo from his relative in Seattle as related to our project in Butte
5. Aaron Hildreth, support for the park
6. Jennifer Cashell, well-rounded recreational park
7. Mary Kay Craig, CTEC, expressing several concerns
8. Carl Hafer, about traffic volume if a park is created
9. Jim Fisher, support for park but questioning softball fields
10. Ted Turnow, suggests building minor baseball stadium
11. Shanna Jorgensen Ahmed, with neighborhood children, draft sketch of "dream park" that local children would want and suggests putting the park at Speed Skating Center

There were also three unsigned letters to Council that were NOT made a part of the public record but will be kept on file. Also one Letter to the Editor from Mr. George Kraus which was not provided directly to the Council.

Finally, hand-written notes from the two "community meetings" (Feb. 11 and Feb. 25) are made a part of the record. These were not public hearings, but many people spoke and Mr. Sesso recorded a summary of the comments made.

②

COMMON TECHNICAL CONCERNS AND QUESTIONS

Is the construction going to cause dust/air quality problems that will be harmful?

Dust mitigation measures, including water trucks, will be used during construction to prevent dust generation. Also, an air quality monitoring plan will be implemented to ensure protection of public health. The plan will include emergency contacts and response measures in the event of air quality problems during non-working hours.

Will Landfill Gas/NMOCs be a problem?

Landfill gas is being generated by the landfill. A gas venting system will be installed to control landfill gas to prevent it from migrating and potentially becoming a threat to human health. The rate at which the landfill is expected to generate landfill gas (and the associated organic compounds) is far below regulatory action levels and is not expected to be a threat to human health. Also, the venting system will be in place for two years before the public will use the proposed recreational facility. Air quality will be closely monitored during this time to ensure protection of human health.

Will the road crossings be safe?

ARCO has developed a thorough safety program, including flaggers, radio communications, and safe distance markers, to ensure that the crossings will be safe. These measures are outlined in the safety fact sheet presented at the public hearing.

Will the proposed caps be sufficient?

The cap as presented for approval will be effective at preventing infiltration and preventing exposure of mine wastes to people at the surface. The mine wastes will be separated from the surface by 39 inches of clean capping materials, including imported topsoil. The low permeability "clay" layer will minimize the amount of infiltration going through the tailings and therefore will help to improve groundwater quality. The cap will be installed with EPA and MDEQ oversight, in accordance with a strict construction quality assurance plan.

Will the groundwater monitoring program be sufficient?

Yes. The location and depth of the monitoring wells have been selected very carefully after substantial research at this specific site. These wells were located and installed in accordance with widely-accepted groundwater monitoring practices. The wells will detect groundwater contaminants emanating from the site.

Will placing the LAO materials at the site cause additional groundwater contaminants?

No. The contaminants in the Clark Tailings are very similar to the contaminants in the LAO materials. By placing the LAO wastes on top of the Clark Tailings and installing the low permeability cap, the action will not exacerbate groundwater contamination. Installing the cap will protect groundwater quality, and the groundwater must be monitored for at least 30 years to show that groundwater quality is protected.

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR MARCH 5, 1997

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 5, 1997 in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Jack Lynch at 7:30 p.m.

ROLL CALL

11 Present, 1 Absent. Commissioner Murphy was out of town

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 19, 1997

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to approve of the Minutes of the Regular Meeting of February 19, 1997

CITIZEN'S COMMENTS

None

ITEMS NOT ADDRESSED ON AGENDA - SUSPENSION OF THE RULES

It was moved by Commissioner Kerns that in accordance with the provisions of Section 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Communication No., 9519 to be added to the Agenda of tonight's Regular Meeting of the Council. The motion was seconded by Commissioner Heard and carried by a roll call vote of 11 yea, 0 nay and 1 absent.

CHIEF EXECUTIVE'S REPORT

None

SECTION I BID OPENING

SEALED BIDS OR PROPOSALS FOR ONE NEW PORTABLE SEWER BY-PASS PUMP. **Proof of publication was noted and placed on file.**

Jim Johnston, Director of the Public Works Department opened one bid from the Waterworks Industries of Casper Wyoming in the Amount of $50,975.00. The bid bond was in order.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to refer the bid to the Public Works Department and to hold in abeyance for report back.

SECTION II PUBLIC HEARING

FOR THE PURPOSE OF DISCUSSING AND SEEKING PUBLIC COMMENT ON THE USE OF A GRANT AWARDED BY THE JUSTICE ASSISTANCE BUREAU OF THE U.S. DEPARTMENT OF JUSTICE. **Proof of publication was noted and placed on file.**

Sheriff McPherson told the Council that the Bureau of Justice Assistance awarded a grant to Butte-Silver Bow in the amount of $46,000.00 under the Board of Crime Control. The provisions of the grant were specific in the uses of it. Fifty percent was to go to law enforcement and equipment, 25% to the School District to enhance security in the schools, and 25% to the District Courts to enhance security up there. The bond is a 10% match.

Mr. Lynch opened the Public Hearing up for comments. On the third and final call for proponents, there being no response, the Chief Executive called for opponents and again, there was no response, so he called the public hearing closed at 7:35 p.m.

SECTION III CONSENT AGENDA

A. 1. Committee of the Whole Meeting Report

2. Committee of the Whole Sitting as Judiciary Committee Meeting Report

3. Finance and Budget Committee Meeting Report

4. Judiciary Committee Meeting Report

5. Public Works Committee Meeting Report

6. Personnel Committee Meeting Report

B. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, the Chief Executive called for anyone wishing to segregate any item to do so. Commissioner Kerns asked that Communication 9484 be segregated.

It was then moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to adopt the Consent Agenda, Section III-A, Items 1 through 6 and Section III-B, Items 2 through 33, exclusive of Item 1.

Commissioner Kerns told the Council members that he was requesting Communication No. 9484 to be held in the Committee of the Whole until it could be determined whether or not there was anything to prohibit the placing of collection cans within the Courthouse. He then made the motion to hold Communication No. 9484 in Committee of the Whole for further investigation. It was seconded by Commissioner Heard and carried by a unanimous verbal vote.

SECTION IV COMMUNICATIONS TO BE READ AND ACTED UPON

1. No. 9498 Linda Guptill, President, B-SB Arts Foundation, requesting time to introduce new Executive Director, Glenn Bodish and give progress report.

Linda Guptill, President of the B-SB Arts Foundation came to the microphone to update the Council on the progress of the Art Chateau and to let the Council know how they are spending the taxpayers money. She expressed a desire to do this on a yearly basis. She passed out the exhibition schedule for 1997. She told the council that they are currently working on the plumbing and heating system repairs which are being funded with URA dollars. The sandstone repair is nearly completed. Part of the roof still need to be done. There is some miscellaneous exterior work to be done . The courtyard still needs to be finished. A retaining wall, we need some window restoration with some sills. Out of the $230,000 URA fund, there is approximately $63,000 remaining. $40,000 additional funds will probably be required to complete the exterior work. We are currently getting bids to refurbish the deteriorating galleries.. We've received private donations in the amount of $4,500 so we will see when the bids come in, and hopefully they'll be low enough. We do have people who are willing to donate labor. Our fund-raising projects this year include the cookbook sales, the Holiday Gala, the Marionette Theater, Discovery classes for children 7 and up, and the quilt fest. We have increased our fund-raising projects to include a lobster fest and this year will be doing a mini-wine tasting dinner. We are doing out best to make ends meet. I'll have John come up and give you some actual reports to give you an idea of our funding.

We are re-evaluating out mission statement next month to make sure we're meeting the needs of the community. We never want to lose sight of the fact that the Art Chateau is for the people of Butte. Thank you for all your past support because without it I'm not sure that we would be able to continue operating.

Chief Executive Lynch agreed that a yearly report would be beneficial. This provides for the council an opportunity to thank the Foundation for all their hard work.

John Burns, the treasurer of the Art Chateau, came to the microphone and gave a breakdown of what happened in 1996. For the last four years they have managed not to increase their budget. It runs about $80,000 per year. $41,000 is raised from fund-raising, memberships, contributions. $9200.00 last year came from URA and $25,000 came from Butte-Silver Bow. So we had $75,500 in receipts. The expenditures were $78,000 for the year. We managed to have a deficient of $3,000. $45,000 of that is wages and payroll taxes which includes the director and all the staff . Maintenance and repairs on the building were $8800.00. Utilities were $6200.00 and the rest of the expenses are approximately $19,000. So, we managed to pretty much break even over the last four years. Several years ago the URA loaned the money to publish the cookbook. On the cookbook sales, what we do is take almost half of that and put it away as a reserve so when we have to publish that in several years we'll have the money to do that. We won't need to go back to the URA to support that.

Glenn Bodish, executive director of the Art Chateau, introduced himself to the Council. He is from Eureka, Montana. He has a Master's degree in Fine Arts from the University of Montana and a Bachelor's degree from Southern Oregon State College. He hopes to bring his expertise and knowledge to the town of Butte and create a new vision for the Chateau. He would like to maintain the integrity and history of the building and the history of Butte. He would like to create more multi-cultural and diverse exhibitions from both local and nationally recognized artists.

Mr. Lynch congratulated Mr. Bodish on his appointment and welcomed him to his new post and wished him the best of luck, particularly with his fund-raising effort.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to place Communication 9498 on file

2. No. 9514 Jon C. Sesso, Planning Director, re: Council recommendation on the Combined Closure of the Old Butte Landfill and the Clark Tailings, the use of the Clark Tailings Area as a Repository for Colorado Tailing, and the final land use plan for the area.

JON SESSO - I draw your attention to a report that should be in front of everybody If anybody would like one there is extra copies in the back. I'm not going to go over the deal again. We talked about it. We're talking about moving the Colorado tailings onto the Clark tailings, closing the Clark tailings and reclaiming that area. Closing the old landfill and reclaiming that area and then building a recreational facility on top. In front of you is a report that includes a number of attachments. I draw your attention to the second page. The second page is where we stand this March 5th. We started with a preliminary approval from the Department of Environmental Quality on January 28 and then subsequently an approval from the EPA on January 30. Of the two main reports that are before you for approval tonight. Then we had a series of public hearings and meetings

starting on February 5th and running through the end of the month. We had a couple of community meeting, as you, know, you had a couple public hearings in front of this body throughout February. We've had, in my view, an excellent month. We've had above average participation among the citizens in our community, and I think we have and you have a pretty firm understanding of where the community sits as you make your decision this evening. Tonight you will make this recommendation and move the process forward and it is anticipated based on your recommendation that the regulatory agencies will make their determination on Monday.

The next page of your packet has to do with the common questions and concerns. I thought it would be in your interest to know what the most often asked questions have been over the course of the last month having to do with air quality issues, landfill gases from our landfill area, the road, the crossings and the safety of those crossings, the proposed caps, the cap over the landfill and the cap over the Clark tailings, long-term groundwater monitoring program and also what types of materials will be placed at the Clark tailings and will that cause any additional problems. The answers are there to your questions. I won't belabor them this evening except to say that our consultant has done an excellent job of answering these questions on behalf of the public and they are there for your review.

The next seven pages of your packet is again a specific set of answers to the 17 questions posed by the Board of Health. The Board of Health questions came on February 19th. As you can see on March 2nd our consultant has forwarded responses to each of the 17 questions. Of course, that led to the Board of Health's endorsement last evening of the project.

Skipping ahead, the fourth handout is the safety fact sheet. A number of questions were asked about the safety of the haul route and how we would insure safety of the trucks crossing. This particular set of measures will be incorporated into the design and the plan for the remedial activities and both in terms of traffic safety and dust control, I think we've gone a long way to address the public's concern.

The next handout is the three-page letter of intent that is to initiate negotiations with ARCO regarding the construction of the facility, regarding the long-term maintenance of the facility, the long-term responsibilities for future remediation, if it becomes necessary, and long-term maintenance of the remediated areas as ARCO has pledged their support to help us take care of those responsibilities in the long term. This would be a letter that would be signed through your authorization by Mr. Lynch and forwarded to Sandy Stash officials with ARCO for counter-signature and it would become the basis for the negotiation of a legally binding agreement. In other words, we have an agreement in principle embodied in this letter and then the detail and the legal agreement that would have to be signed would follow based on this letter.

The next page is simply the communication that I prepared for this evening with respect to the decision you have before you and the last page is the draft motion that outlines the five

things that you have to do tonight one way or another. The first is to recommend that the State Department of Environmental Quality approve the Corrective Measures Assessment Report which outlines and describes the procedures that will be used to close the old landfill and reclaim the Clark tailings under a combined project in accordance with applicable regs and the community concerns that have been raised.

The second thing you can do tonight is recommend that the EPA approve the Addendum to the Lower Area One Workplan which describes the technical procedures to allow the Clark Tailings to be used as an alternate repository for the Colorado tailings and to regulate the transport of those wastes along the proposed haul route and to conduct an effective air quality monitoring and mitigation program as has been raised by the citizens through public comments.

The third thing you can do this evening is direct the staff to submit all the public comments that we have received . and we have received quite a bit of them, but most importantly we heaves prepared with the support of the Clerk and Recorder's office a transcript of the two public hearings before you. There are approximately l4 written letters that we have received as well. Several endorsements from both the Board of Health, the Chamber of Commerce and other groups. We have received a set of support letters from the people wanting that high-class toddler playground. We've got that letter from the Board of Health regarding the l7 questions . We've received a memo and a letter from CTEC and the questions that they've raised, etc. You made a commitment to the public at your 19th and 26th hearings to provide all documentation of all information we've received with our submission of your recommendation this evening.

Fourth, you would authorize the Chief Executive to enter into and sign the letter of intent and forward it to ARCO to prepare a binding, legally enforceable agreement on the terms and stipulations understood in the Letter of Intent. (Machine did not record the last of this statement)

Lastly, one of the issues that comes before you that is essentially not yet finalized is what we would do with the area once we have the reclamation activities complete. We got a lot of positive comment at the public hearing to the proposed land use plan but we also received a number of additional suggestions on how to improve, refine and/or change that plan; and it would be the recommendation of staff that the Council through your action this evening sponsor and lead an extended public discussion regarding what finally would go on top of the reclaimed area. ARCO has agreed to keep the window of discussion and opportunity to make that decision open for a little while longer. There are certain constraints we have to work within. They need to know soon what the footprint of the recreational area will be so that they can design the cap and install the repository accordingly; but by the same token, they have granted us some additional time and it would be our recommendation that you take advantage of that time and the council, at your discretion, could work with the Butte-Silver Bow Parks and Recs Board and the Planning Board to solicit more public input to review and evaluate the suggested refinements to the plan and then prepare a recommendation that you could then bring back

through this body on what the (inaudible) say by the first part of April and then you could conduct a public hearing on that refined recommendation before making a final decision. So, you know, we've through a very good, I think, solid, public participation process in the last month. We haven't really received - once we have answered all the technical questions raised by the Board of Health and raised by citizens in this series of public meetings we feel that there's a good amount of consensus support for the technical issues that are before you and with the additional month to discuss end uses I think we can reach a similar consensus on what exactly we should build on top of the area once the reclamation is complete.

I turn your attention back to the first page again those would be attachments that are included in your packet in this report and then based on your actions this evening there's a bunch of other stuff that we would include in our submission to DEQ and EPA that pretty much summarized comprehensively all input that we've received to date. With that Mr. Chairman, I would, you know, answer any questions you have.

MR. LYNCH - So, Mr. Sesso, the requested action from council tonight is to encompass in motion form under Communication 9514 those five principle tenants of the agreement as outlined here. Is it your desire to have an ad hoc committee appointed to study the issues of land use in conjunction with the Parks and Rec Board?

MR. SESSO - Well, I wouldn't exactly say it would be my desire. The suggestion in No. 5, I think, captures the input that we've received from the public thoughout the last month. You know, we've done our best as a staff to capture what we believe to be a proposed land use that addresses as many concerns as possible in one facility. We have received a lot of good input from various members of the public on how to refine that plan and it's up to you on how you want to proceed. We have received volunteers from the Parks and Rec Board and the Planning Board has asked if they could do anything. They could help lead a public discussion, members of those boards. I would suggest that it would be good, as you say, in terms of an ad hoc committee to get representatives from all of the various user groups in a room and ask them to figure out what would be the best facility that meets the most needs and make that recommendation back. I would also add that I think it's important that council members be part of both an ad hoc committee as well as through your participation in these boards. I think it's important that the council lead the process so that we don't start over and we don't lose sight of some of the constraints we're operating under in selecting the appropriate land use facility.

MR. LYNCH - Let me bounce this proposition off you Mr. Sesso, as well as the members of the Council. My thoughts were that perhaps we involve Commissioners Melvin and O'Leary who had led the public discussion as it is their areas that are impacted by this and their areas districts that encompasses this proposed development. And I also ask Mr. Rawlings from Parks and Recreation, Mr. Dennehy from the Health Department, yourself or your designate to the extent you are available from Planning and ask that you begin the process. And, we could also go and expand that group to inched the different representatives of each group. But, perhaps it would be more productive if each one of

those groups had an opportunity to meet with you individually rather than be part of a whole committee so you identify each area of concern or proposed developments it goes forth. It's easy to appoint. I don't care how the process takes place, but it we want to appoint everybody at once, we could certainly do that. Or, we could use that nucleus to determine through feedback to me what other commissioners, what other interests groups or what other members of the public or our professional staffs might want to be involved.

MR. SESSO - That would be fine. I think the Parks Director could identify individuals from the user groups that have been identified in the proposed plan, as well as the user groups that identified themselves in the public hearing process. They all kind of have leaders and so I think we could make a set of recommendations to you Monday and go from there.

MR. LYNCH - If that meets with Commissioner O'Leary and Commissioner Melvin's approval, as well as Mr. Rawlings, Mr Dennehy -- if you would be willing to put a little more extra effort into this and try and begin to flush out that land use.

MR. O'LEARY - That would meet with my approval but I would also suggest that possibly we have a representative of the Timber Butte area residents also be involved in that since they are going to be impacted by whatever.

MR. LYNCH - I have that on my list. I'll tell you what my list consists of then you guys can decide how you want to do it and how you want to bring them through but representatives from the neighborhoods, representatives from the tot lot groups, Cindy Stergar, representatives from each of the three Little League groups in Butte, representatives of Little Guys football, representative of Babe Ruth, representative of Legion. And I think that you guys might find it beneficial to deal with those folks individually as you plan this just using that core group of the two commissioners, the Recreational Director, Health Director and Planning staff.

MR. SESSO - Mr. Chairman, I would add also hikers, and you know, pedestrian-type uses, people who also would be supportive of the amphitheater use. We don't want to lose sight of -- if we got one major comment from the public over the last month is that we have to strive to make it a multi-dimensional, a multi-recreational facility that serves all age groups, and all kinds of recreation. To be honest, you know, people think the we're a little too heavy on the ball field angle and not heavy enough on, you know, some of the recreation, different types of recreation and so we wouldn't want to lose sight of those other users in collecting feedback on this refined plan.

MR. LYNCH - How about if I propose we start with that core group of five and you report back next week with select individuals representative of each public interest group and neighborhood group that you think should be part of this overall discussion and we will appoint them to the committee as well?

MR. KERNS - Mr. Chairman, there may be a conflict or a problem though unless Park and Rec has not set their normal schedule for when they meet. If we're going to use an April 2nd deadline to come back. Maybe Bob can answer that question. You have normal monthly schedule though for Park Board meetings.

MR. RAWLINGS - We meet every third Wednesday but we are having a meeting tomorrow (tape did not pick up the rest of his reply. He was too far from the microphone).

MR. LYNCH - It's easy to select those five individuals that are here and ask them to participate. It's more difficult to name representatives for each of those interest groups without somebody contacting them and asking them if they would be willing to serve in that capacity. So, if you 'd do that and get it back to either myself or Mr. Kerns, you can assume the appointments will be forthcoming and then that can begin your work and integrate that with the Parks and Rec's Board' activities.

MR. SESSO - Mr. Chairman, I would think that we should - maybe if you would just approve the idea of the five of us leading the effort and then allowing us to get these people involved. We've really got to try and keep the ball rolling.

MR. LYNCH - At your discretion. Just feel free to take it and run with it.

MR. HEARD - Mr. Chairman, just so there is no misunderstanding and it's clear, if Dan want to serve on that advisory group that is certainly up to him as a member of the staff, but I think it need to be made clear that the Board of Health has taken no position and does not intend too take a position on the land use aspect of this whole proposal. They have done the study as far as the technical issues are concerned. Have never have addressed and my inclination is at this point, is don't want to address or get into the land use issue itself as the Board of Health. But Dan can speak for himself but the Board of Health may not want to get into that.

MR. LYNCH - Let me clarify. I'm not asking Dan as the representative per se of the Board of Health, but rather as someone who's got a knowledge of what we need to be concerned about relative to health issues. And, act as an advisory capacity and also in his position as Chairman of the Technical Review Committee on the Environmental Issues. I mean he serves in that capacity aside from his Health Department functions. So, Dan if it's a conflict for you I can recognize it but I certainly would like you to participate.

MR. DENNEHY - Sure.

MR. LYNCH - Very well. Mr. Melvin?

MR. MELVIN - My only confusion come in now. Will this Ad Hoc Committee work in unison with the Parks and Recreation Board?

MR. LYNCH - Yes

MR. MELVIN - So we will bring our findings to the Park and Recreation Board or will we meet with the Park and Recreation Board or --

MR. LYNCH - You're basically going to develop your own process relative to land use. getting input from all those individual groups, as well as yourselves, and integrate your findings with the Parks Board as they go through the public venue.

MR. MELVIN - OK. Thanks, Jack..

MR. KERNS - Mr. Chairman, at this time I would like to thank Jon and the Planning staff for the outlay of tonight's agenda and the details that they've gone through in this lengthy public hearing process. I think that it's very enlightening to the Council to be able to put these in packets and have them as notes and I think your office and yourself, Jon, have done an exemplary job on this particular plan.

MR. HEARD - I would just echo Mike's comments without a doubt, but I also prior to his making the motion I would like to read into the record as a member of the Board of Health, a Council representative of the Board of Health, just to clarify the letter that was sent out by the Board of Health after it's meeting last night and that is a letter regarding the proposed combined closure of the old county landfill and the Clark tailings with materials from the Colorado tailings at Lower Area One . It's a very brief letter. (He then read the letter to the Council. A copy of this letter is attached to these minutes.) He then recognized that Tom Malloy and Dan Dennehy were both in the audience and said that if any of the members of the council or the audience had any questions as to the position of the Board of Health, they would be happy to address them.

MR. LYNCH - Are there any other questions or comments for the member of the Council?

MR. KERNS - Mr. Chairman, at this time then I will make a motion that will have five parts it which will be a portion to the questions and all of the facts that we have accumulated under Communication No. 9514. The motion will read as follows:

I move that the DEQ approve the Corrective Measures Assessment Report as provided by Butte-Silver Bow.

I move that EPA approve the Addendum 1 to the Lower Area One Workplan.

I would direct the Butte-Silver Bow staff to submit all public comments to both DEQ and EPA of all records of testimony of Council's hearings on February 19 and February 26 through February 28.

I would move that the Chief Executive be authorized to sign the February 19 draft of the Letter of Intent to ARCO which outlines the terms associated with the construction of the new facility at the Clark Tailings Area.

I would move that an extended public discussion period on the final land use for the Clark Tailings area be put in place, that the Council work with the Park and Recreation Board, the BSB Planning Board and the Chief Executive appoint an ad hoc committee to meet with these two groups to prepare a recommendation to council for an April 2 deadline of the recreational use of that area and that the council, after received this recommendation, will conduct a public hearing on the recommendation and then will make a final end use decision. This will be all in one motion, Mr. Chairman.

The motion was seconded by Commissioner Heard.

On the Question, Commissioner Kerner stated, "I don't have a question. I just have a statement that I would like to make in response to a question I've heard a couple of times over the past month regarding whether I would abstain from voting on this issue tonight because I work for ARCO. First of all, ARCO is going too pay me the same whether these tailings are moved to Opportunity, to the Clark tailings or they stay where they're at. They are also going to pay me the same whether I spend my evenings at the Courthouse or home watching TV. And, I want to make it clear that it is my constituents who influence my vote and not ARCO. And secondly, and most importantly, with the majority of the Superfund work being done in the district that I have been elected to represent, I think it would be patently unfair to my constituents to lose their voice on the Council simply because I work for ARCO. I take my responsibility as a commissioner very seriously and when I am sitting up here I'm not representing ARCO or the County, I am representing the people who have elected me to represent them. Unless there is something that I haven't thought about, I plan on voting tonight.

The motion as presented by Mr. Kerns was then unanimously approved with a verbal vote. Mr. Lynch commented that the question has been raised about whether or not this should have been a roll call vote but he thought it was sufficient to note that from where the Chair sat, the vote was unanimous.

SECTION V ORDINANCES & RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 1963

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF PHASE I OF THE ANTELOPE SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 1964

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE AMENDED PLAT OF LOT 2A, BLOCK 1 OF THE PARKS SILVER BOW ADDITION SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VI ORDINANCES - SECOND READING

1. COUNCIL BILL NO. 576
ORDINANCE NO. 576

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 24 AND SUBSECTIONS (A), (B), (C), (D), (E) AND (F) OF SECTION 10.52.0250 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); PROHIBITING PARKING ON PORTIONS OF BROADWAY, IDAHO AND PARK STREETS BETWEEN THE HOURS OF 6:00 A.M. AND 1:00 P.M. ON MARCH 17TH OF EACH YEAR AND DELETING THE PROHIBITION AGAINST PARKING ON MONTANA STREET BETWEEN PARK AND BROADWAY STREETS DURING SUCH HOURS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill NO. 576, Ordinance No. 576 on second reading and passed having been deemed read at length.

SECTION VII ORDINANCES & RESOLUTIONS - FINAL PASSAGE

1. COUNCIL RESOLUTION NO. 1962

A RESOLUTION APPROPRIATING MONIES RECEIVED FROM THE UNITED STATES DEPARTMENT OF JUSTICE TO BUTTE-SILVER BOW TO BE EXPENDED FOR PUBLIC SAFETY ENDEAVORS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 1962 on final passage and passed having been deemed read at length.

SECTION VIII ORDINANCES & RESOLUTIONS
SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yeas, 0 nays and 1 absent considering that an emergency exists that Council would suspend the rules for the purpose of passing Council Resolutions No. 1965, 1966 and 1967 and Communication No. 9519 by waiving Rule VII of Section XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 1965

A RESOLUTION CREATING A NEW FUND WITHIN THE BUTTE-SILVER BOW ACCOUNTING SYSTEM TO BE KNOWN AS THE DEPARTMENT OF PUBLIC WORKS, WATER UTILITY DIVISION DISTRIBUTION SYSTEM IMPROVEMENT FUND; IDENTIFYING SAID FUND BY THE NUMBER 5211 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 1965 on final passage and passed having been deem read at length.

2. COUNCIL RESOLUTION NO. 1966

A RESOLUTION CREATING A NEW FUND WITHIN THE BUTTE-SILVER BOW ACCOUNTING SYSTEM TO BE KNOWN AS THE DEPARTMENT OF PUBLIC WORKS, SILVER LAKE WATER OPERATIONS SYSTEM FUND; IDENTIFYING SAID FUND BY THE NUMBER 5212 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yeas, 0 nays and 1 absent too place Council Resolution No. 1966 on final passage and passed having been deemed read at length.

3. COUNCIL RESOLUTION NO. 1967

A RESOLUTION DECLARING THAT AN EMERGENCY EXISTS REGARDING THE CONTINUING OPERATIONS OF THE WATER UTILITY DIVISION OF THE DEPARTMENT OF PUBLIC WORKS; STATING THAT THERE IS NO BUDGET AUTHORITY FOR THE REPAIR, MAINTENANCE AND OPERATION OF THE SILVER LAKE WATER SYSTEM WITHIN THE DEPARTMENT OF PUBLIC WORKS; STATING THE FACTS CONSTITUTING THE EMERGENCY, PROVIDING AN ESTIMATE OF THE AMOUNTS TO BE EXPENDED AND THE AMOUNT OF REVENUES AVAILABLE; PROVIDING FOR FUNDS AGAINST WHICH TO ISSUE NECESSARY WARRANTS; PROVIDING THE AUTHORIZATION TO MAKE THE EXPENDITURES OR INCUR THE LIABILITIES NECESSARY TO MEET THE EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 11 yea, 0 nays and 1 absent to place Council Resolution No. 1967 on final passage and passed having been deemed read at length.

OTHER BUSINESS

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to rise to the Call of the Chair,

The meeting adjourned at 8:30 P.M.

APPROVED BY THE COUNCIL OF COMMISSIONERS THIS 19TH DAY OF MARCH, 1997

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER

ATTACHMENT B-10

UPDATED SCHEDULE of EVENTS (3/5/97)

Closure of the Old Butte-Silver Bow Landfill and Clark Tailings Area and Proposed Use of the Clark Tailings as a Disposal Site for Lower Area One Wastes

1/28/97	Preliminary Approval by Montana Department of Environmental Quality of the *Corrective Measures Assessment Report*
1/30/97	Submission of *Addendum No. 1: Clark Tailings Alternative Repository for Lower Area One Wastes* to the U.S. Environmental Protection Agency
2/5/97	Public Comment Period Begins on Proposed Plan; presentation before the Butte-Silver Bow Council of Commissioners; documents available for public review;
2/11/97	Public Information Meeting in affected neighborhoods; 7pm, Boulevard Fire Hall, Franklin Street. Presentation followed by Q&A; emphasis on technical issues.
2/19/97	Public Hearing before the Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, 3rd Floor, Council Chambers, Granite Street, Butte, MT.
2/25/97	Community Meeting to discuss land uses; 7pm, Community Center, Front Street, Butte, MT. Presentation with emphasis on suggestions about final land uses.
2/26/97	Public Hearing (continued) before the Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, Council Chambers, Butte
2/28/97	Public Comment Period Ends. Regulatory agencies also receive transcripts of public hearings and begin review of comments.

3/5/97	Regular Meeting, Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, Council Chambers, Butte, MT. Take action on recommendation. Council extends comment period on final land use decision.
3/10/97	Final Decision by State and EPA on Proposed Plan. After review of public comments, the regulatory agencies will make final decision on proposed plan. Pending approval, reclamation activities begin.
4/2/97	Council presents recommendation on final land use plan; schedules public hearing and finalizes timeline for decision on recreational facility.
Mar-Nov, 1998	Scheduled completion of transfer of Lower Area One Wastes to alternative repository. Construction of recreational facilities.
Sept 1, 1999	Target Date to open recreational facilities for public use.

John Sesso
Planning Director
c/o Silver bow County Court House
Butte, Montana

3/5/97

John:

I am sending the memo I read to you this a.m. -3-4-97.
Hope this will be of some help to you.
If you need any further info let me know.

Respectfully,
Fritz Apostel

2900 Sheridan Ave
Butte, MT 59701 - 4665

Re: Butte Park Plan/Superfund Site

We closed 2 superfund designated sites that the City of Seattle operated for 20+ years. One site (Midway) was 66-acres and supposedly did not contain perusable materials the other, (Kent-Highlands) was about 90-acres and was a municipal garbage dump. Closing both sites cost in excess of $100 million. Both sites produced methane and intercepted underground drainage courses. The organic material and the anaerobic condition produced the methane, which was in significant quantities at the K-H site.

The City ceased operation at Midway in 1985 and place a ©dirt, cover over the garbage as a temporary measure in preparation for final cover and closure. Unfortunately the dirt cover served to seal the landfill and prevent the methane from ventilating directly to the atmosphere. As the methane built-up it would seek other paths and ended up venting through the utility systems and houses in the surrounding residential neighborhoods. This caused us many problems and a great deal of cost aside from the normal cover & cap closure, but that,s a whole different story.

The $50 million cost to ARCO is probably realistic if not on the low side. The purpose of the impermeable cap (clay or a synthetic material like HDPE) is to prevent water from entering the garbage and picking up the contaminants and transporting them into the aquifers. The cap then is really to keep water out of the garbage. Aquifers, realistically, cannot be cleaned-up, the water can only be treated if it is to be used for consumption and such treatment can be expensive. In ages gone by there wasn,t the concern for our garbage dumps that there is today, primarily because of the many more complex chemical compounds that have and are being developed that are extremely toxic and hazardous. The numbers of such compounds have grown in a geometric progression.

Even after the capping there will still be methane produced in the landfill. It will probably be collected with a system of wells and pipes and can either be burned off, vented to the atmosphere or collected for commercial purposes if it is of adequate quality and quantity. Methane is not a dangerous gas (not poisonous) and is very prevalent. It is explosive when contained and representing 4% to 15% of the volume.

We closed a small landfill in Chelan County which we covered with 2 feet of dirt, 2+ feet of low permeability clay, and 1.5 feet of soil for natural planting materials (weeds). Trees cannot be planted for they would penetrate to clay and create paths for drainage waters into the garbage.

I can,t speak to the mine tailings as an impermeable cover material, but I,m sure there will be sufficient testing to assure a proper quality of material.

Depending on the age of the landfill and the amount of decomposition that has taken place, there could be considerable settlement over time even after the final cover has been placed. That,s a maintenance problem. The ball fields may be a good use of the site and fully acceptable. Any minute amounts of methane that may escape through the cover will not pose a threat to anyone using the site.

H. Fritz Apostel
2900 Sheridan Ave.
Butte, MT 59701-4665

PM
15 MAR
1997

USA 32

John Sesso
Planning Director
c/o Silver Bow County Court House
Butte, MT 59701

Jana Faught

418 W. Galena

Butte, MT 59701

March 5, 1996

RECEIVED MAR 5 1997

Jon Sesso
Planning Director
Butte-Silver Bow
Butte, MT 59701

Dear Jon,

My comments regarding the Clark Tailings Park Plan are as follows:

I would recommend pushing the amphitheater part of the plan more to the top of the priority list rather than concentrating only on golf courses and baseball fields.

Butte-Silver Bow and the VISTA program has spent $15,000 dollars developing an events plan to celebrate our ethnic diversity and to plan festivals to boost the economy of Butte. The plan is in place and there is still no suitable venue for most of these events.

Please consider looking into a facility that would allow Butte to have outdoor events as well as indoor events that would be the appropriate size for festivals of all kinds.

Thank you for your consideration.

Sincerely,

Jana Faught

Jana Faught

BUTTE-SILVER BOW PLANNING DEPARTMENT
TELEFAX TRANSMISSION FORM

DATE: 4 Mar. 1997

TO: See list

OFFICE:

FAX NUMBER:

FROM: Butte-Silver Bow

OFFICE: Council of Commissioners

TELEPHONE NUMBER: 723-8262

FAX NUMBER: 782-6637

ADDITIONAL REMARKS:

Pat Crowley, DEQ - 444-1374
Brad Archibald, Pioneer Technical - 782-5866
Chuck Stilwell, ARCO - 563-8269

Page 1 of 13 pages.

COMMENTS FROM THE CONTINUATION OF THE PUBLIC HEARING AT THE COMMITTEE OF THE WHOLE MEETING
FEBRUARY 26, 1997

SECTION I CONTINUATION OF PUBLIC HEARING

FOR THE PURPOSE OF PRESENTING THE PREFERRED CORRECTIVE MEASURES AND CLOSURE PLANS AT THE OLD SILVER BOW LANDFILL AND THE CLARK TAILINGS; DISCUSSING THE USE OF THE CLARK TAILINGS AREA AS A DISPOSAL SITE FOR MATERIALS FROM THE COLORADO TAILINGS AND THE BUTTE REDUCTION WORKS; AND DISCUSSING THE DEVELOPMENT OF A PROPOSED RECREATIONAL COMPLEX TO BE CONSTRUCTED AS PART OF THE CLOSURE OF THE CLARK TAILINGS AND OLD SILVER BOW LANDFILL.

CHAIRMAN KERNS - I would ask that any of the people that are in the audience tonight that wish to comment, that there is a sign-up sheet in the back of the room. We ask that you sign that sheet if you intend to speak. We also ask, there is another sheet in the back of the room, if any of you wish to give written comments if you would sign that prior to presenting written statements to the Council. I would also ask that each of you as you decide to come forward in an orderly fashion, that you come to either of the microphones on either side of the room. Give your name and your local address if you would please. At this time we will open the public hearing and I would call on Jon Sesso to give the staff report.

JON SESSO - Thank you, Mr. Chairman. Everybody has been well-advised of the actions. Just as a quick overview - the concept is the old landfill needs to be closed. The Clark Tailings area needs to be reclaimed and in a combined effort DEQ has allowed us to consider the closure of these two areas as one closure and one opportunity to clean up that area. As part of that closure activity a corrective measures report has been prepared by our consultant to identify the proper lay of the cap and close the landfill and reclaim the Colorado Tailings. In addition, it has been brought forward to use the Clark Tailings area as a repository for the Colorado Tailings waste. These wastes would be transported to the Clark Tailings via this route along the old railroad right-of-way and then subsequently capped in place and over that would be a safe barrier to protect the environment and then on top of that would be a recreational complex. That's the general concept. I would like to just quickly review where we've been and where we're leading to. I should start by saying that on January 28th the Department of Environmental Quality and EPA gave tentative approval to the plan and a technical documentation submitted by Butte-Silver Bow and ARCO for how they would go about this clean-up. On February 5th, we introduced the concept of the proposal to this body. We announced a public meeting that was held then on February 11th. We started the public hearing that we are continuing tonight on February 19th. At your direction on the 19th a second community meeting was held . That meeting was held last night. This evening there is a continuation

of the public hearing that began on the 19th and written comments was extended from February 21st to the 28th, this Friday. The next step at the conclusion of the public hearing this evening will be to provide written responses to several of the technical questions that have been raised and for the Council to take action on March 5th to make its recommendation to the EPA and the DEQ on your position regarding the general proposal that has been laid out before you. Subsequently then, the DEQ and EPA will make a decision on whether to approve the plan as it has been proposed or approve it with changes or not approve it at all and then the activity will either commence subsequently the week following or not happen at all. The next thing we wanted to do, just as a way too introduce the public hearing this evening, is that over the course of this month we have received a lot of input and a number of technical questions about the plan and I have asked our consultant, Mr. Brad Archibald, to just offer the council a brief overview of what those questions have been and the technical answer that we intend to provide you and all members of the public prior to next Wednesday. So, with that at your discretion I would introduce Brad Archibald just to give a quick technical overview of these questions and then open it up to public statements.

BRAD ARCHIBALD - I'll try to follow the three minutes here. I'm Brad Archibald with Pioneer Technical Services. The Board of Health, in addition to many other people, have provided some technical questions, comments, concerns with the project. What I have done is try to paraphrase their 17 questions and then I will provide our responses to those in a quick format here. By addressing those 17 questions we will, for the most part, address the other technical issues that have raised by the public during this process and if there is anything I leave off or any questions you folks have for me, when I finish I would be glad to address those also.

The first portion of the questions from the Board of Health and from the public also have to deal with air monitoring and dust control. In regards to that, EPA and ARCO have agreed to implement an air monitoring program. To that end a monitoring plan is now being developed by ARCO that will be submitted to EPA for review, comments and ultimately approval as part of the ARCO work plan addendum. The first draft of that is out there right now available for public comment. This air monitoring plan will be included in the revision of that and must be approved by EPA. That plan will identify the appropriate contact people to get hold of in case there is dust problems during working hours, and as the Board of Health requested, dust problems that occur during non-working hours. So, if dust is blowing on Saturday, no one is working and there's dust problems, they will know who to get ahold of so they can get out there and get the water trucks on that site and take care of that problem. And, I'm sure that plan will identify the response actions they will be taking in case there are air quality concerns or problems.

Second general question from the Board of Health had to do with volatile organic compounds and odors from the landfill portion of the site. Let me state again as I did last week, that landfill gas is being produced at that landfill now and will always be produced. We cannot prevent that. The anticipated gas production rates at that landfill are well below all regulatory action levels for acquiring an air quality permit. Those action levels

④

LAO/Clark Tailings Project
Public Safety Fact Sheet

Public Road Crossings (Greenwood Ave. and Beeftrail Rd.)

Traffic Control at Intersections

- **2 flagmen** will be stationed at each crossing to control all traffic.

- **Flagmen** will maintain **radio communication** with construction traffic and each other.

- The **public will be asked to stop** their vehicles **every** time at the crossings, except during construction shutdown periods. Construction traffic will have the right-of-way.

- Haul trucks will reach public road crossings approximately once **every 90 seconds**. Public traffic delays are expected to be 30 to 45 seconds on average, with occasional longer delays.

- **Construction traffic will be stopped in case of any emergency.**

- **Slower construction traffic** (e.g., motor graders and water trucks) will be kept **away from road crossings** during **peak** public traffic times.

- **Advanced warning signs, stop signs, and flashing lights** will be placed on both sides of each crossing to alert the public to stop.

- **Safe crossing markers** will be positioned on haul roads at 1000' on both sides of the crossings. Flagmen will signal public traffic through the crossings when no construction traffic is observed inside the safe crossing markers.

Keep Crossings Clean

- Road surfaces at and approaches to the crossings will be cleaned and maintained to facilitate safe travel.

Maintaining Quality Control

- Construction equipment will be **inspected** and maintained on a regular basis.

- Construction equipment **operators will be trained and qualified** to perform assigned duties and will be instructed to use equipment headlights at all times.

- Public road crossing safety procedures may change depending on field observations.

Dust Control

- **Dust** from the haul road and loaded truck boxes **will be controlled**. Dust from truck boxes is not expected to be a problem since the LAO material is damp when transported.

- **Dust suppressant** measures such as chemical applications (e.g., magnesium chloride) and water trucks will be used.

- **Air monitoring** will be performed downwind of the haul road and the Clark Tailings.

ATTACHMENT B-7

BUTTE-SILVER BOW HEALTH DEPARTMENT
25 WEST FRONT
BUTTE, MONTANA 59701
406-723-3274
FAX 406-723-7245

MAR - 5 1997

March 4, 1997

Chief Executive Jack Lynch and the
Butte-Silver Bow Council of Commissioners
Butte-Silver Bow County Courthouse
155 West Granite Street
Butte, Montana 59701

RE: Proposed Combined Closure of Old County Landfill and the Clark Tailings with materials from the Colorado Tailings and Lower Area One

Ladies and Gentlemen:

The Butte-Silver Bow City-County Board of Health (BOH) has reviewed the proposed combined closure of the old Butte-Silver Bow County Landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works Site (i.e., Lower Area One Operable Unit [LAO]). On March 4, 1997, the Butte-Silver Bow City-County Board of Health unanimously voted to endorse the proposed closure and strongly recommends that the Air Monitoring Program for the Clark Tailings Hauling Activity be amended as per Health Department Staff comments and that the Lower Area One Work Plan / Design Report regarding corrective action and off duty dust control measures be finalized and implemented by the agencies and ARCO prior to any construction acitivites.

The BOH is satisified that the seventeen questions posed in our February 19, 1997 letter have been or are presently being addressed by Pioneer Technical Services, ARCO, EPA and MDEQ. Again, the BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance.

We would like to thank you for the opportunity to review the technical issues for this project. We hope that our comments were helpful in the review process.

Sincerely,

Thomas M. Malloy
Thomas M. Malloy
Board Member
Butte-Silver Bow Board of Health

Phyllis Egan
Phyllis Egan
Chairperson
Butte-Silver Bow Board of Health

c.c.: Board of Health

DTD/bf

ATTACHMENT B-13

ARCO

307 East Park Street, Suite 400
Anaconda, Montana 59711
Telephone 406 563 5211
Facsimile 406 563 8269

VIA FACSIMILE

March 3, 1997

RECEIVED MAR 5 1997

Mr. Ron Bertram
Remedial Project Manager
U.S. EPA Region VIII - Montana Office
301 South Park, Drawer 10096
Helena, MT 59626

Dear Ron:

Attached are responses to comments received by letter or verbally at the various hearings and meetings on the Clark Tailings proposed project. These comments are being sent to you at this time for you and your contractor to be able to assimilate them and your responsiveness summary related to the EPA's decision on the subject.

Feel free to call Eric Jacobsen, Brad Archibald, or myself if there are any questions.

Sincerely,

For CTS.

Chuck Stilwell
Project Manager

CTS:tjb

cc: Kevin Kirley
Bob Alexander (via facsimile)
Henry Elsen
Jon Sesso
Brad Archibald (via e-mail)

file:
Chronological (w/o attachments)

ATTACHMENT 1

Public Hearing February 19, 1997

1. John Ray: Opposes Proposal; public safety comparison with Streamside Tailings truck haul.

   Response: See Attachment 2, Response #1.

2. Carl Hafer: Supports Proposal; county needs to address intersection.

   Response: None.

3. Cindy Stergar: Supports Proposal; want state of the art tots playground.

   Response: Recreational Facility Comment = no response needed.

4. George Paul: Supports Proposal; "Little Guy" football backer.

   Response: Recreational Facility Comment = no response needed.

5. Ken Reap: Opposes Proposal.

   (a) Catch basin is a problem.

   Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, we will mitigate erosion from the site. In the future, the amount of sediment from the Clark Tailings/Old Landfill site will be substantially less. Mr. Reap also expressed concern that we were placing more tailings within a floodplain. This is not true, all tailings from the LAO will be placed and capped in high, dry areas. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (catch basin) before being discharged to Grove Gulch.

   (b) Groundwater well with iron.

   Response: See response to Cromm's concern in letter. Also, the Reap's were provided with the data from the sampling of their well conducted during the assessment of corrective measures for the Clark Tailings/Old Landfill. The data shows that there are not elevated concentrations of contaminants associated with the Clark Tailings. The high iron content in the well is not an uncommon occurrence in the Blacktail Creek/Grove Gulch alluvial aquifer

6. Tom Malloy Tentatively Support Proposal; if comments/questions in attached letter are addressed.

   Response: See Attachment 3.

7. Mike Panisko: Supports Proposal; supporter for Babe Ruth fields.

Response: Recreational Facility Comment = no response needed.

8. Steve Rodrigues: Supports Proposal; landfill overburden will be stressed by extra overburden.

   Response: The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAP materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both cap will be maintained and any settlement will be repaired.

9. Tom Whaley: Supports Proposal; wants baseball stadium, publicly owned, baseball club lead renter.

   Response: Recreational Facility Comment = no response needed.

10. Bob Green: Supports Proposal.

    Response: None needed.

11. Jim Hanley: Supports Proposal: American Legion Baseball supporter: wants input on field's design; wants one like Missoula, Bozeman, or Belgrade; current plan may be too congested.

    Response: Recreational Facility Comment = no response needed.

12. Gina Konen: Supports Proposal; Little Guy football support.

    Response: Recreational Facility Comment = no response needed.

13. Venita Whitford: Not Necessarily Against Proposal; drainage problem concern.

    Response: Drainage structures, including ditches and ponds, are incorporated into the design. This includes an engineered ditch along the east edge of the Clark Tailings (this is the area Mrs. Whitford was concerned about).

14. Cynthia Kromm: Supports Closure.

    (a) Clay material must be appropriate.

    Response: See response to Board of Health comments 8 through 12.

    (b) Monitoring deep aquifer - need baseline deep aquifer data.

    Response: Deep aquifer: see response within body of letter.

15. Evan Barrett: Supports Proposal; adequate public input is necessary; more time is needed for land users; Project Green delegated responsibility for getting public input.

Response: Recreational Facility Comment = no response needed.

16. Jim Kuipers: Attached memo lists concerns (see attached memo).

    Response: Substantive comments either addressed in Attachment 2 or Brad Archibald's letter (Attachment 3).

17. Jim Keane: Supports Proposal; "Win-Win" with tailings moved to Clark Tailings.

    Response: Recreational Facility Comment = no response needed.

Public Meeting February 25, 1997

1. Dave Kneebone: Crossing needs concrete pad; Decon for trucks; Liability to County for crossing; Flagging safety -can't make trucks stop, -inherently more safer to have public stop; Should base plan on experience from Anaconda, Coal Company

   Response: See Attachment 2, Response #2.

2. Charlie O'Leary: Length of work for flaggers -will they work 10 hours straight, -how will we keep them alert.

   Response: See Attachment 2, Response # 2

3. Ken Reap: Is the Grove Gulch tailings downstream of Clark Tailings to be cleaned up with this project?

   Response: This area is not part of the Clark Tailings. ARCO will consider addressing the issue of surficial tailings in Grove Gulch if we get full approval of solution under the Butte Priority Soils Operable Unit (BPSOU).

Mary Kay Craig February 23, 1997 Letter (response only)

Bullet 1: Materials in floodplain/increased mobilization

Response: see response to Reap comment from February 19, 1997 meeting.

Bullet 4:

Response: ARCO is responsible for providing funding for permanent site maintenance related to the remedy.

Bullet 4:

Response: See Attachment 2, Response #1.

Bullet 7:

Response: See Attachment 3, Response on VOC's.

Bullet 8:

Response: See Attachment 2, Response #3.

Public Hearing Comments February 26, 1997

1. John Ray: Cap Design Desiccation; Potential problems with cap include: Freeze/Thaw Cycle, Maintenance, Erosion, Biointrusion, Differential settlement.

   Response: Freeze/thaw, etc.: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils. The soils we are using exceed the hydraulic conductivity specification by more than an order of magnitude; therefore, it can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design includes compacted waste below the infiltration barrier layer (to assist in the preventing infiltration); a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential; and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

   Maintenance of the cap will be provided as required by MDEQ regulations and as is necessary for the recreational facility. Erosion of the properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings, and maximum slopes of 25%, we will be able to establish a healthy vegetative cover. This will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. We will be venting landfill gas which will mitigate this problem.

   Biointrusion (i.e. gophers) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

   Differential settlement/subsidence: The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAP materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both cap will be maintained and any settlement will be repaired.

2. Vernita Whitford: Supports plan, but doesn't want ballfield, wants trails and playground.

3. Carl Hafer: Supports Proposal; Proponent-Advocate for ARCO quality, safety.

4. Brian (?): Wants tree screen to east, concerned about long-term maintenance.

5. Daniel Malloy: Concerned about intersection at Hansen and Montana Street.

6. Wayne Paffhausen: Wants park in SE part of town/High Altitude Center with stadium.
7. Arnie Barnett: Concerned about short time of comment regarding recreation facility.
8. Bob Becker: Wants revenue generator, golf course.

ATTACHMENT 2

LAO/Clark Tailings Project
Responses to Public Comments

1. Public meeting, 2/19, John Ray; Bullet #5, CTEC letter, 2/23, Mary Kay Craig: **Transportation safety with trucks compared to SST and accident statistics.**
   The transportation route from LAO to Clark Tailings crosses two public roads which are normally traveled by nearby residents only. The remainder of the transportation route is off-road haul through a non-residential corridor. This transport route will not change over the course of the LAO/Clark Tailings project. The alternative to truck haul to Clark Tailings is rail haul to Opportunity. Rail haul has its inherent dangers and inconveniences, namely the several public road crossings-- including Highway 1--between LAO and the Opportunity Ponds. Additionally, the LAO project will be completed 1 to 2 years faster by truck than by train to Opportunity

   Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on or across major public roads at several locations. Specifically, travel from subareas 1 and 2 would have involved hauling on several county roads and I-90. ARCO previously argued that because of the dynamic nature of the SST truck haul and because considerable interference with the public would occur at varied and changing locations on and across public roads, the alternative of in-situ treatment of SST materials is much better for public safety. Public safety risks associated with over-the-road haul situations are much higher than compared to crossing situations as is the case for the proposed haul to Clark Tailings.

2. Public meeting, 2/25, Dave Kneebone; public meeting, 2/25, Charlie O'Leary; Issue #1, Jim Kuipers letter, 2/14 : **Crossing safety, crossing surface, decontaminate trucks, flagging safety, trucks should stop, experience with private/public crossings, etc.**

   ARCO is fully committed to making safety a priority on this project just as it does on all projects. Public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include two flagmen at each crossing with radio communication between construction traffic and each other; traffic signs and lights; trained flagmen and equipment operators; requirements for the public to stop every time at road crossings during construction work hours; provisions for cleaning and maintaining the road crossings; safe crossing markers on each side of the road crossings; and frequent evaluations of the effectiveness of crossing safety.

   These policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. These resources concur that it is much more safe to request relatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

ATTACHMENT 2

In consideration of public traffic needs, the crossing surfaces will be maintained to promote safe travel. This will include an overlay of asphalt on the existing road or the equivalent. If the overlay surface is damaged, it will be repaired. Once hauling activities are complete, the crossing surface will be returned to its existing or better condition. The crossing will also be cleaned promptly in the unlikely event that materials from haul trucks are spilled on the crossings. However, care will be taken when loading haul trucks to ensure that material spillage on haul roads is minimal, if any. From past experience on the LAO project, materials trackage and spillage from haul trucks has not been a problem. Additionally, most of the haul road is off-road where minor material spills would not impact the public and would be cleaned up as needed. Thus, decontamination of trucks is not expected to be necessary.

The two flagmen at each crossing will communicate closely with each other and the equipment operators. The flagmen will complete and document daily inspections of the crossings. One flagman will be the leader at each crossing to avoid sending confusing signals to the public or equipment operators. Construction foremen and site supervisors will check on the flagmen regularly during the day and will provide them with breaks as needed.

Crossing signs and lights will be sized and located according to the Federal Manual of Uniform Traffic Control Devices. Signs and lights will be decommissioned during non-working hours.

3. Bullet #8, CTEC Letter, 2/23, Mary Kay Craig: **Connection between NRD lawsuit and expedited cleanup between at LAO.**

   There is no connection between the desire to expedite the LAO cleanup and the Natural Resource Damages (NRD) lawsuit.

4. Items 1,2,3 , 2/19, BSB Board of Health Letter: **Ambient air quality monitoring, point of contact to report dust, responses to problems.**

   This response is in place of response provided in Brad Archibald's letter response to the Board of Health.

   The EPA has directed ARCO to conduct ambient air quality monitoring for the proposed activities. ARCO has agreed to perform the monitoring. A monitoring plan is currently being developed by ARCO and has been forwarded in draft form to the BSB Board of Health, EPA, and MDEQ. The final plan will be submitted to EPA in the LAO Phase I, Segment II Work Plan/Design Report Addendum 1.

   ARCO plans to monitor for PM10 and heavy metals using air monitoring equipment stationed along the haul road and at Clark Tailings. The monitoring plan will include appropriate contact personnel. Additionally, media releases and a sign at Clark Tailings will include names and numbers of contact personnel.

   The air monitoring plan will include provisions for correcting fugitive dust emissions including, but not limited to, additional water trucks and use of surfactants or other chemical agents. A

loaded water truck and "on call" driver will be available during non-working hours in case dust problems arise.

5. Issue #1, Jim Kuipers letter, 2/14 : **Dust and noise pollution during construction**

   Dust will be controlled using water trucks and/or chemical applications as explained in the LAO Phase I, Segment II Work Plan/Design Report Addendum 1. Air monitoring will be conducted as described above to ensure dust control measures are adequate.

   Noise levels will be similar to what is currently being experienced during Montana Pole and Treating Plant remedial activities. Additionally, residents near the Clark Tailings site should be far enough away from construction activities that noise will not present significant inconveniences.

6. Issue #4, Jim Kuipers letter, 2/14 : **Why change the plan?**

   The primary reason to change the plan is to expedite the LAO remediation schedule. The LAO cleanup can be expedited by 1 to 2 years hauling by truck rather than train. The existing train haul approach is counterintuitive; i.e., significant cleanup activities both upstream (Butte Priority Soils Operable Unit) and downstream (Streamside Tailings Operable Unit) of LAO would be occurring prior to completion of the LAO work. Under the accelerated schedule for LAO, several areas requiring remedial activities would be positively affected and the remediation sequencing makes much more sense.

   Also, the Clark Tailings and Old BSB Landfill sites will be remediated concurrently with LAO. Remediation activities at all three sites should be completed by mid-1998 at the latest. The Butte community will ultimately realize the benefits of a recreation complex constructed at the Clark Tailings site.

ATTACHMENT 3

February 26, 1997

DRAFT

Dan Dennehy, Director
Butte-Silver Bow Health Department
25 East Front Street
Butte, Montana 59701

Dear Mr. Dennehy:

This letter is intended to provide answers to the technical questions that have been raised regarding the proposed Old Landfill/Clark Tailings project during the public comment process. Below, I address the questions and comments from the Butte-Silver Bow Board of Health in their February 18 letter to Chief Executive Lynch (Attachment A). Responses to the technical issues raised by Jim Kuipers of CTEC in his February 14, 1997 letter to BSB, CTEC, EPA, MDEQ, and ARCO are embodied in the answers to the Board of Health questions below. Finally, I provide responses to other technical questions raised by the public during the public meetings and hearings to date.

1. The U.S. Environmental Protection Agency (EPA) has directed ARCO to conduct ambient air quality monitoring program for the proposed activities. ARCO has agreed to perform the monitoring. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.
2. Appropriate contact personnel will be included in the air monitoring plan discussed above. The method of notifying the public of the contact person(s) will be included in the plan.
3. The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.
4. The 8.5 tons per year reported in the Final Draft, Butte-Silver Bow Landfill/Clark Tailings Corrective Measures Assessment is based on EPA's conservative default values for non-methanogenic organic compounds (NMOCs) concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. (It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the Montana Department of Environmental Quality if the facility may require an air quality permit based on default values.) The intent of utilizing the default values was to show that even with the conservative default values, the Old BSB Landfill is not expected approach regulatory action levels. (These include the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year.) Actual gas generation rates are expected to be much lower. Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic

conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system is intended to be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

5. Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting

6. EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-1150) is the designated contact with EPA. MDEQ is the lead agency for placement of the materials at the Clark Tailings; installation of the caps over the Clark Tailings and the landfill; and installation of the gas venting system. Pat Crowley (444-5294) is the MDEQ point of contact. In this role, MDEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Clark Tailings. During placement of the materials at the Clark Tailings and installation of the cap, MDEQ will be the lead agency. However, MDEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

   Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. MDEQ must approve the plans to

place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. MDEQ must approve a the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

7. BSB does not have a direct voice during construction. BSB does have review and approval authority during the design process. The County can voice its concerns through EPA and/or MDEQ. Any changes to the design during the construction process must be approved by MDEQ. At BSB's request, MDEQ has agreed to involve BSB in the approval process to any proposed changes to the design

8. No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravels are specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying mine wastes. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

9. The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

   Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

   Structure foundations may require excavation of the infiltration barrier layer. (Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility.) If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

10. Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

11. The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the materials ("clay") used for this layer is not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer daylights to surface water ditches around the perimeter of the site.

12. It will be possible to separate much of the underlying clay from the tailings. This was the case during the construction of test pads of these materials during the July 1996. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings. In this case, these mixed materials will not be used for the infiltration barrier layer. Instead, they will be disposed with the tailings and capped with materials suitable for use as the infiltration barrier layer. EPA and/or MDEQ officials will be present during construction (both the excavation of LAO materials and the installation of the Clark Tailings cap) to ensure that only suitable materials are used for the infiltration barrier layer.

    An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. MDEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

    If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

13. Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent

impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

14. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming the BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

    No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, are within a designated floodplain.

15. There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other CERCLA activities, most likely as part of the Butte Priority Soils Operable Unit of the Butte Area NPL Site.

16. ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

17. In response to this comment, the Council of Commissioners has extended the public comment period to February 28, 1997. In addition, the Council has scheduled two additional public meetings on the subject: one on February 25 and the Butte Community Center and one on February 26 in Council chambers. The Council will vote on the issue on March 5, 1997. If the Board of Health feels that this is still not an adequate amount of time for public review and comment, they should discuss this with the Council and/or the BSB Planning Department.

During the public comment period, the question of the effectiveness of the groundwater monitoring system to detect contaminants present in the "deep aquifer" has been raised. The individual (Cynthia Cromm) making the comment is concerned that we are monitoring the "near surface" water, but are not monitoring lower, where people utilizing the aquifer are drawing their water from. As I have discussed with Ms. Cromm, the groundwater monitoring system in place at the site is approved by MDEQ and will detect any contamination emanating from the site. There is no "shallow" or "deep" aquifer at the site that can be used as a groundwater source. By

measuring near the surface (utilizing accepted, proven groundwater monitoring procedures in accordance with groundwater monitoring), we will detect any contamination from the site that may be a threat to downstream groundwater users. Downgradient of the site, contaminants from the site will be present at nearly equal concentrations throughout the aquifer due to chemical diffusion of the contaminants. At the boundary of the site, there may not have been sufficient time for full diffusion of the contaminants to occur. Therefore, by monitoring near the surface of the aquifer, we are monitoring the location where contaminant concentrations would be the highest.

Also during the public comment period, the issue of truck exhaust/diesel fumes during inversions has been raised. The work is scheduled to be completed between March and November. Therefore, the truck traffic will not be during peak periods of inversion formation in Summit Valley (generally from December to February).

I hope this provides the information the Board of Health requires to fully endorse the proposed project. If you have any additional questions or require more clarification on any of these items, please give me a call at 782-5177.

Sincerely,

Brad Archibald, P.E.
Senior Engineer

Attachment (BSB Board of Health List of Concerns/Questions)

cc: BSB Council of Commissioners
Jim Johnston
Chuck Stilwell, ARCO
M. Dianne Smith, ARCO
Ron Bertram, EPA
Jack Lynch
Jon Sesso
Eric Jacobsen, ARCO
Pat Crowley, MDEQ

PIONEER
TECHNICAL SERVICES, INC.
P.O. BOX 3445, BUTTE, MONTANA 59702 PHONE (406) 782-5177 FAX (406) 782-5866

March 2, 1997

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MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY-SERVICES BUREAU

Dan Dennehy, Director
Butte-Silver Bow Health Department
25 East Front Street
Butte, Montana 59701

Dear Mr. Dennehy:

This letter is intended to provide answers to the technical questions that have been raised regarding the proposed Old Landfill/Clark Tailings project during the public comment process. Below, I address the questions and comments from the Butte-Silver Bow Board of Health in their February 18 letter to Chief Executive Lynch (Attachment A). Responses to the technical issues raised by Jim Kuipers of CTEC in his February 14, 1997 letter to BSB, CTEC, EPA, MDEQ, and ARCO are embodied in the answers to the Board of Health questions below. Finally, I provide responses to other technical questions raised by the public during the public meetings and hearings to date.

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rates from a landfill, but the testing procedure is very costly and only required by EPA and the Montana Department of Environmental Quality [MDEQ] if the facility may require an air quality permit based on default values.) The intent of utilizing the default values was to show that even with the conservative default values, the Old BSB Landfill will not approach regulatory action levels. (These include the MDEQ's 25 tons per year of NMOCs or EPA's 50 tons per year.) Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995; gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

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    No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

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Concerns regarding settlement of the tailings materials and the cap have been expressed during the public comment period. The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials are designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern.

Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Some members of the public have raised the issue of tailings and sediments along Grove Gulch downgradient of the site and have expressed a concern that will exacerbate this situation by placing the LAO materials in a floodplain. The downgradient sediments are most likely from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, we will mitigate erosion from the site. In the future, the amount of sediment from the Clark Tailings/Old Landfill site will be substantially less. We are not placing additional materials in a floodplain; all tailings from the LAO will be placed and capped in high, dry areas. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin before being discharged to Grove Gulch.

Also during the public comment period, the issue of truck exhaust/diesel fumes during inversions has been raised. The work is scheduled to be completed between March and November. Therefore, the truck traffic will not be during peak periods of inversion formation in Summit Valley (generally from December to February).

I hope this provides the information the Board of Health requires to fully endorse the proposed project. If you have any additional questions or require more clarification on any of these items, please give me a call at 782-5177.

Sincerely,

Brad Archibald

Brad Archibald, P.E.
Senior Engineer

Attachment (BSB Board of Health List of Concerns/Questions)

cc: BSB Council of Commissioners
Jim Johnston
Chuck Stilwell, ARCO
M. Dianne Smith, ARCO
Ron Bertram, EPA
Jack Lynch
Jon Sesso
Eric Jacobsen, ARCO
Pat Crowley, MDEQ

ATTACHMENT A

The following is a listing of concerns / questions identified by the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit (LAO)). The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how these issues may impact the technical integrity of the proposed closure actions.

This listing is only for the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period. The following concerns are not prioritized and are in no particular order. The concerns / questions are presented in bulletized format for brevity.

1 Regarding air quality, the BOH recommends that an Ambient Air Quality Monitoring Plan be designed and implemented which will be protective of human health and the environment, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The monitoring plan should be designed to address both the perimeter of on-site activities, as well as the nearby communities.

2 Regarding air quality, the BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems / concerns, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction.

3 Regarding air quality, the BOH recommends that the Ambient Air Quality Monitoring Plan include a Dust Response Plan whereby fugitive dust problems will be responded to and corrected in the most timely manner possible, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The concern here is that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days.

4 Regarding air quality, the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the old landfill in its peak year of gas production. It is further reported that a permit for this type of source is not required under MDEQ regulations until the source has the potential to emit greater than 25 tons per year of NMOCs.

ATTACHMENT A

The following is a listing of concerns / questions identified by the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit (LAO)). The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how those issues may impact the technical integrity of the proposed closure actions.

This listing is only for the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period. The following concerns are not prioritized and are in no particular order. The concerns / questions are presented in bulletized format for brevity.

1 Regarding air quality, the BOH recommends that an Ambient Air Quality Monitoring Plan be designed and implemented which will be protective of human health and the environment, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The monitoring plan should be designed to address both the perimeter of on-site activities, as well as the nearby communities.

2 Regarding air quality, the BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems / concerns, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction.

3 Regarding air quality, the BOH recommends that the Ambient Air Quality Monitoring Plan include a Dust Response Plan whereby fugitive dust problems will be responded to and corrected in the most timely manner possible, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The concern here is that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days.

4 Regarding air quality, the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the old landfill in its peak year of gas production. It is further reported that a permit for this type of source is not required under MDEQ regulations until the source has the potential to emit greater than 25 tons per year of NMOCs.

The BOH questions whether or not the projected 8.5 tons per year (approximately 47 pounds per day or 2 pounds per hour) of NMOCs will endanger the publics' health and/or safety on site and/or downwind in the nearby communities. This point is further exacerbated by the proposed recreational land use of the properties, i.e., having organized recreational activities on site where several hundred or thousands of people are on site in close proximity to the passive gas vents.

An additional point of consideration when considering the projected 8.5 tons per year of NMOC emissions, is that there may be certain individuals within the community who are hyper-sensitive to these gasses. Even if the largest portion of the populace is unaffected by these gasses, there must be due consideration given to anticipate potential impacts to hyper-sensitive individuals in our community.

The BOH recommends that the issue of NMOC gasses and their potential impacts to people, particularly hyper-sensitive individuals, be further researched and that the research be reported back to the BOH.

In any event, the BOH recommends that a contingency plan, including specified response actions, for gas venting be prepared in advance of construction, should it later be realized that alternative gas venting measures are necessary.

5 Regarding air quality and the projected 8.5 tons per year of NMOC emissions, will there be any odors associated with these emissions ? If so, what will be the impact of these odors on downwind communities and/or on recreational users of the facility ?

6 Regarding administrative oversight of the entire project, which is the lead agency ? The Colorado Tailings are being moved under a CERCLA action and being deposited onto a landfill closure site, which is being jointly reclaimed with Clark Mill Tailings, under RCRA standards. What will be the respective roles of the U.S. EPA and the MDEQ ? Will both agencies be responsible for oversight of design and implementation ? Specifically, who are the designated points of contact for questions or problems regarding any and all phases of the project ? Do both agencies have to approve the reclamation plans ?

7 As B-SB County is an active participant in these actions and has substantial responsibilities for maintaining the facilities after construction, what will be the role of the County during construction ? In the event of a disagreement between field engineers during construction, will there be any dispute settlement procedures whereby the County can voice its concerns ?

8 Regarding the caps, the preferred Alternative 8 makes no mention of using lime, limestone or limerock anywhere in the caps. Will any of these or similar alkaline agents be used for any of the proposed caps ? If yes, what are the sources and specifications for these materials, e.g., mesh size, CaCO content, etc. ?

9 Regarding the caps, how will the designs and construction techniques allow for facilities, structures, vegetation, etc., which will penetrate through the cap ? For example, poles for night lights, power poles, water supply lines, sewer lines, trees, shrubs, baseball backstops, football goal posts, etc. must all be anchored to a depth which is greater than the proposed caps.

10 Similarly, how will the facility operators be able to retrofit new or replacement structures / landscaping once construction is complete, without endangering the integrity of the cap and thereby incurring potential additional liabilities ? The BOH believes these retrofit considerations must be engineered and designed into the construction plans prior to construction.

11 Regarding the Capillary Break / Drainage Layer (i.e., a 6 inch layer of coarse materials) to be installed above the infiltration barrier (i.e., clay) layer within the cap, what type of material is this and what is the source ? Page 9-2 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that, "...as a drainage layer, (the coarse materials) will provide a highly permeable medium for which water that has infiltrated through the overlying cover soils to drain by gravity from the cap before infiltrating through the infiltration barrier (clay) layer." Isn't the purpose of the 18 inch infiltration barrier (clay) layer to prevent water infiltration ? Similarly, if the coarse media is to provide rapid drainage, and the water can not pass through the clay layer, where is the water draining to ?

12 Regarding the infiltration barrier (i.e., clay) layer within the cap, page 6-13 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that, "The low permeability soil for the Clark Tailings cap would most likely be clayey sands from the Hollow borrow pit north of the site." "Alternatively, native silts and clays from the LAO Operable Unit, which will be removed as part of that remedial action, may be used for the infiltration barrier layer. These materials would be used if they do not leach unacceptable levels of metals and are approved by MDEQ." "Investigations of these sources of materials (combined) show that there is an adequate volume of these materials available to provide the 126,000 cubic yards necessary."

Under extremely wet field excavation conditions, will it be logistically feasible to segregate the Colorado tailings from the silts and clays which lay below ? What are the levels to be used in determining acceptable vs. unacceptable

levels of leaching metals ? When will the MDEQ approve or disapprove of these materials and what criteria will they use ? If the MDEQ rejects the use of silts and clays from beneath the Colorado tailings, will there still be enough volume available from the Hollow borrow pit ?

13 Regarding irrigation waters for the facilities, page 9-1 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that the proposed lined pond south of the tailings areas may also be used as a source for irrigation waters. Will this pond be adequate to maintain the necessary vegetative caps during periods of low-flow or no-flow ? If not, what is the alternative source for irrigation waters ? If a well is to be the source, what will be the location and will that source be adequate during dry years ? Will any proposed irrigation wells have adverse effects elsewhere in the aquifer, e.g., will someone elses well dry up ? Will Butte City water be used ?

14 In the event of catastrophic failure of the cap(s) and/or the Grove Creek water diversion structures, who will be responsible for restoring the caps and other corrective features and any associated site cleanup ? It is our understanding that the designs for handling storm water runoff are for the 10 year / 24 hour storm event. Is this design parameter adequate enough to protect the interests of B-SB County, especially if we are responsible for cap maintenance ? It is not entirely uncommon to have a major storm event in Butte during the June-July time frame which will flush out major gullies and drainages. Are any of the subject properties or structures located in a designated floodplain ?

15 Page 2-6 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* describes the 36-inch diameter corrugated pipe dewatering structure used to dewater the Timber Butte Sedimentation Basin. It states further that this pipe is perforated below the ground surface to allow for dewatering of the basin. Page 5-7 states further that, "the Grove Gulch Sedimentation Pond and the Timber Butte Sedimentation Basin remove the majority of suspended solids and associated metals from these water columns. However, during high flow events, there is the possibility that eroded soils (and tails) may not be removed from the water column before discharging to Grove Gulch."

It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this proposed closure action ? If not, when will they be addressed ?

16 What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) to the properties during construction and afterwards ? This is critical for both safety and cap failure / success.

17 In the Attachments section of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment*, a copy of a letter is provided, dated March 23, 1995, from Mr. Robert J. Robinson, Director of the Montana Department of Health and Environmental Sciences and addressed to Mr. Jack Lynch of Butte-Silver Bow County. The subject of the letter is the proposed combined cleanup of the Clark Tailings and the old County landfill. Mr. Robinson states, "MDHES agrees with the proposed approach provided that the following (four) conditions are met." Condition Number 4 states, "B-SB will need to involve the public fully in the evaluation and selection of corrective actions and closure options for the combined site."

The Board of Health appreciates the need to expedite these cleanup activities in the most efficient, timely, cost-effective and thorough manner. Additionally, we appreciate the need to take the maximum advantage of Buttes' short construction season. However, the Board believes ~~that the 16~~ days provided for public comment (i.e., February 5th to February 21st) may not be adequate for the general public, or the BOH, to receive, review, digest and comment upon the many technical intricacies associated with a project of this magnitude.

Please be advised that other technical issues regarding public health and safety may yet be raised during the public comment period. The BOH recognizes this and reserves its ability to further amend the Boards' comments / concerns.

BUTTE-SILVER BOW HEALTH DEPARTMENT
25 WEST FRONT
BUTTE, MONTANA 59701

406-723-3274
FAX 406-723-7245

March 4, 1997

Chief Executive Jack Lynch and the
Butte-Silver Bow Council of Commissioners
Butte-Silver Bow County Courthouse
155 West Granite Street
Butte, Montana 59701

RE: Proposed Combined Closure of Old County Landfill and the Clark Tailings with materials from the Colorado Tailings and Lower Area One

Ladies and Gentlemen:

The Butte-Silver Bow City-County Board of Health (BOH) has reviewed the proposed combined closure of the old Butte-Silver Bow County Landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works Site (i.e., Lower Area One Operable Unit [LAO]). On March 4, 1997, the Butte-Silver Bow City-County Board of Health unanimously voted to endorse the proposed closure and strongly recommends that the Air Monitoring Program for the Clark Tailings Hauling Activity be amended as per Health Department Staff comments and that the Lower Area One Work Plan / Design Report regarding corrective action and off duty dust control measures be finalized and implemented by the agencies and ARCO prior to any construction acitivites.

The BOH is satisified that the seventeen questions posed in our February 19, 1997 letter have been or are presently being addressed by Pioneer Technical Services, ARCO, EPA and MDEQ. Again, the BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance.

REPORT
to
Butte-Silver Bow Council of Commissioners
March 5, 1997 regular meeting

RE: Communication No. 9514

Old Butte Landfill/Clark Tailings Project -- Council Recommendation to the Montana Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency (EPA)

ATTACHMENTS for review 3/5/97

1. Updated schedule of events during review process
2. Common Technical Questions and Concerns (3/5/97)
3. March 2 Letter from BSB Consultant to BSB Board of Health in response to 17 questions (seven pages)
4. Public Safety Fact Sheet in response to concerns about haul route and traffic
5. Draft "Letter of Intent" from BSB to ARCO on commitments to execute reclamation plans, build recreational facility, manage long-term monitoring, operation and maintenance, and assume liability for future remediation.
6. Council Communication No. 9514 (March 3, 1997)
7. Draft MOTION re: Communication No. 9514

ADDITIONAL ATTACHMENTS TO BE SUBMITTED WITH COUNCIL RECOMMENDATION TO REGULATORY AGENCIES

1. Council Communication No. 9448 (February 3, 1997)
2. Preliminary Air Monitoring Plan, to be included with final implementation plan
3. Public Testimony Transcript -- Feb. 19 Council Hearing
4. Public Testimony Transcript -- Feb. 26 Council Hearing
5. Endorsement letter from BSB Board of Health -- March 4, 1997
6. Endorsement letter from BSB Chamber of Commerce -- 2/28/97
7. Group of 10 support letters suggesting first-class, high quality toddler playground
8. BSB Board of Health letter with 17 technical questions -- 2/19/1997
9. Memo from Jim Kuipers, CTEC Technical Advisory with specific concerns -- 2/14/97
10. 14 other letters from individual citizens and groups with various comments, mostly regarding aspects of the land use plan, public safety, oversight, off-site transportation, and other issues covered in correspondence with Board of Health and Letter of Intent.

UPDATED SCHEDULE of EVENTS (3/5/97)

Closure of the Old Butte-Silver Bow Landfill and Clark Tailings Area
and
Proposed Use of the Clark Tailings as a Disposal Site for Lower Area One Wastes

1/28/97	Preliminary Approval by Montana Department of Environmental Quality of the *Corrective Measures Assessment Report*
1/30/97	Submission of *Addendum No. 1: Clark Tailings Alternative Repository for Lower Area One Wastes* to the U.S. Environmental Protection Agency
2/5/97	Public Comment Period Begins on Proposed Plan; presentation before the Butte-Silver Bow Council of Commissioners; documents available for public review;
2/11/97	Public Information Meeting in affected neighborhoods; 7pm, Boulevard Fire Hall, Franklin Street. Presentation followed by Q&A; emphasis on technical issues.
2/19/97	Public Hearing before the Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, 3rd Floor, Council Chambers, Granite Street, Butte, MT.
2/25/97	Community Meeting to discuss land uses; 7pm, Community Center, Front Street, Butte, MT. Presentation with emphasis on suggestions about final land uses.
2/26/97	Public Hearing (continued) before the Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, Council Chambers, Butte
2/28/97	Public Comment Period Ends. Regulatory agencies also receive transcripts of public hearings and begin review of comments.

3/5/97	Regular Meeting, Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, Council Chambers, Butte, MT. Take action on recommendation. Council extends comment period on final land use decision.
3/10/97	Final Decision by State and EPA on Proposed Plan. After review of public comments, the regulatory agencies will make final decision on proposed plan. Pending approval, reclamation activities begin.
4/2/97	Council presents recommendation on final land use plan; schedules public hearing and finalizes timeline for decision on recreational facility.
Mar-Nov, 1998	Scheduled completion of transfer of Lower Area One Wastes to alternative repository. Construction of recreational facilities.
Sept 1, 1999	Target Date to open recreational facilities for public use.

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COMMON TECHNICAL CONCERNS AND QUESTIONS

Is the construction going to cause dust/air quality problems that will be harmful?

Dust mitigation measures, including water trucks, will be used during construction to prevent dust generation. Also, an air quality monitoring plan will be implemented to ensure protection of public health. The plan will include emergency contacts and response measures in the event of air quality problems during non-working hours.

Will Landfill Gas/NMOCs be a problem?

Landfill gas is being generated by the landfill. A gas venting system will be installed to control landfill gas to prevent it from migrating and potentially becoming a threat to human health. The rate at which the landfill is expected to generate landfill gas (and the associated organic compounds) is far below regulatory action levels and is not expected to be a threat to human health. Also, the venting system will be in place for two years before the public will use the proposed recreational facility. Air quality will be closely monitored during this time to ensure protection of human health.

Will the road crossings be safe?

ARCO has developed a thorough safety program, including flaggers, radio communications, and safe distance markers, to ensure that the crossings will be safe. These measures are outlined in the safety fact sheet presented at the public hearing.

Will the proposed caps be sufficient?

The cap as presented for approval will be effective at preventing infiltration and preventing exposure of mine wastes to people at the surface. The mine wastes will be separated from the surface by 39 inches of clean capping materials, including imported topsoil. The low permeability "clay" layer will minimize the amount of infiltration going through the tailings and therefore will help to improve groundwater quality. The cap will be installed with EPA and MDEQ oversight, in accordance with a strict construction quality assurance plan.

Will the groundwater monitoring program be sufficient?

Yes. The location and depth of the monitoring wells have been selected very carefully after substantial research at this specific site. These wells were located and installed in accordance with widely-accepted groundwater monitoring practices. The wells will detect groundwater contaminants emanating from the site.

Will placing the LAO materials at the site cause additional groundwater contaminants?

No. The contaminants in the Clark Tailings are very similar to the contaminants in the LAO materials. By placing the LAO wastes on top of the Clark Tailings and installing the low permeability cap, the action will not exacerbate groundwater contamination. Installing the cap will protect groundwater quality, and the groundwater must be monitored for at least 30 years to show that groundwater quality is protected.

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PIONEER
TECHNICAL SERVICES, INC.
P.O. BOX 3445, BUTTE, MONTANA 59702 PHONE (406) 782-5177 FAX (406) 782-5866

March 2, 1997

Dan Dennehy, Director
Butte-Silver Bow Health Department
25 East Front Street
Butte, Montana 59701

Dear Mr. Dennehy:

This letter is intended to provide answers to the technical questions that have been raised regarding the proposed Old Landfill/Clark Tailings project during the public comment process. Below, I address the questions and comments from the Butte-Silver Bow Board of Health in their February 18 letter to Chief Executive Lynch (Attachment A). Responses to the technical issues raised by Jim Kuipers of CTEC in his February 14, 1997 letter to BSB, CTEC, EPA, MDEQ, and ARCO are embodied in the answers to the Board of Health questions below. Finally, I provide responses to other technical questions raised by the public during the public meetings and hearings to date.

1. The U.S. Environmental Protection Agency (EPA) has directed ARCO to conduct ambient air quality monitoring program for the proposed activities. ARCO has agreed to perform the monitoring. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

2. Appropriate contact personnel will be included in the air monitoring plan discussed above. The method of notifying the public of the contact person(s) will be included in the plan.

3. The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

4. The 8.5 tons per year reported in the *Final Draft, Butte-Silver Bow Landfill/Clark Tailings Corrective Measures Assessment* (CMA) is based on EPA's conservative default values for non-methanogenic organic compounds (NMOCs) concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. (It is possible to determine actual gas production

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rates from a landfill, but the testing procedure is very costly and only required by EPA and the Montana Department of Environmental Quality [MDEQ] if the facility may require an air quality permit based on default values.) The intent of utilizing the default values was to show that even with the conservative default values, the Old BSB Landfill will not approach regulatory action levels. (These include the MDEQ's 25 tons per year of NMOCs or EPA's 50 tons per year.) Actual gas generation rates are expected to be much lower. Also, the projected peak year for landfill gas production was 1995; gas generation rates will decline with time (see Appendix E of the CMA report). Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system will be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

5. Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting

③ - 3

6. EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-1150) is the designated contact with EPA. MDEQ is the lead agency for placement of the materials at the Clark Tailings; installation of the caps over the Clark Tailings and the landfill; and installation of the gas venting system. Pat Crowley (444-5294) is the MDEQ point of contact. In this role, MDEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Clark Tailings. During placement of the materials at the Clark Tailings and installation of the cap, MDEQ will be the lead agency. However, MDEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

   Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. MDEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. MDEQ must approve the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

7. BSB does not have a direct voice during construction. BSB does have review and approval authority during the design process. During construction, BSB will have access to the site and can voice its concerns through EPA and/or MDEQ. Any changes to the design during the construction process must be approved by MDEQ. At BSB's request, MDEQ has agreed to involve BSB in the approval process to any proposed changes to the design

8. No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravels are specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying mine wastes. Reactive materials such as lime and limestone will degrade over time, compromising their effectiveness. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

9. The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

3-4

- Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

  Structure foundations may require excavation of the infiltration barrier layer. (Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility.) If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

10. Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

    The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

11. The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the materials ("clay") used for this layer are not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer daylights to surface water ditches around the perimeter of the site.

12. It will be possible to separate much of the underlying clay from the tailings. This was the case during the construction of test pads of these materials during the July 1996. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings. In this case, these mixed materials will not be used for the infiltration barrier layer. Instead, they will be disposed with the tailings

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and capped with materials suitable for use as the infiltration barrier layer. EPA and/or MDEQ officials will be present during construction (both the excavation of LAO materials and the installation of the Clark Tailings cap) to ensure that only suitable materials are used for the infiltration barrier layer.

An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. MDEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

13. Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

14. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming the BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, is within a designated floodplain.

③-6

15. There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other CERCLA activities, most likely as part of the Butte Priority Soils Operable Unit of the Butte Area NPL Site.

16. ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

17. In response to this comment, the Council of Commissioners extended the public comment period to February 28, 1997. In addition, the Council held two additional public meetings on the subject: one on February 25 and the Butte Community Center and one on February 26 in Council chambers. The Council will vote on the issue on March 5, 1997. If the Board of Health feels that this is still not an adequate amount of time for public review and comment, they should discuss this with the Council and/or the BSB Planning Department.

During the public comment period, the question of the effectiveness of the groundwater monitoring system to detect contaminants present in the "deep aquifer" has been raised. The individual (Cynthia Cromm) making the comment is concerned that we are monitoring the "near surface" water, but are not monitoring lower, where people utilizing the aquifer are drawing their water from. As I have discussed with Ms. Cromm, the groundwater monitoring system in place at the site is approved by MDEQ and will detect any contamination emanating from the site. There is no "deep" aquifer at the site, separated from the alluvial aquifer that we are monitoring, that can be used as a groundwater source. By measuring near the surface (utilizing accepted, proven groundwater monitoring procedures in accordance with groundwater monitoring), we will detect any contamination from the site that may be a threat to downstream groundwater users. Downgradient of the site, contaminants from the site will be present at nearly equal concentrations throughout the aquifer due to chemical diffusion of the contaminants. At the boundary of the site, there may not have been sufficient time for full diffusion of the contaminants to occur. Therefore, by monitoring near the surface of the aquifer, we are monitoring the location where contaminant concentrations would be the highest.

Concerns regarding settlement of the tailings materials and the cap have been expressed during the public comment period. The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAO materials are designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern.

Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both caps will be maintained and any settlement will be repaired.

Some members of the public have raised the issue of tailings and sediments along Grove Gulch downgradient of the site and have expressed a concern that will exacerbate this situation by placing the LAO materials in a floodplain. The downgradient sediments are most likely from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, we will mitigate erosion from the site. In the future, the amount of sediment from the Clark Tailings/Old Landfill site will be substantially less. We are not placing additional materials in a floodplain; all tailings from the LAO will be placed and capped in high, dry areas. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin before being discharged to Grove Gulch.

Also during the public comment period, the issue of truck exhaust/diesel fumes during inversions has been raised. The work is scheduled to be completed between March and November. Therefore, the truck traffic will not be during peak periods of inversion formation in Summit Valley (generally from December to February).

I hope this provides the information the Board of Health requires to fully endorse the proposed project. If you have any additional questions or require more clarification on any of these items, please give me a call at 782-5177.

Sincerely,

Brad Archibald, P.E.
Senior Engineer

Attachment (BSB Board of Health List of Concerns/Questions)

cc: BSB Council of Commissioners
Jim Johnston
Chuck Stilwell, ARCO
M. Dianne Smith, ARCO
Ron Bertram, EPA
Jack Lynch
Jon Sesso
Eric Jacobsen, ARCO
Pat Crowley, MDEQ

④

LAO/Clark Tailings Project
Public Safety Fact Sheet

Public Road Crossings (Greenwood Ave. and Beeftrail Rd.)

Traffic Control at Intersections

- **2 flagmen** will be stationed at each crossing to control all traffic.
- **Flagmen** will maintain **radio communication** with construction traffic and each other.
- The **public will be asked to stop** their vehicles **every** time at the crossings, except during construction shutdown periods. Construction traffic will have the right-of-way.
- Haul trucks will reach public road crossings approximately once **every 90 seconds**. Public traffic delays are expected to be 30 to 45 seconds on average, with occasional longer delays.
- **Construction traffic will be stopped in case of any emergency.**
- **Slower construction traffic** (e.g., motor graders and water trucks) will be kept **away from road crossings** during **peak** public traffic times.
- **Advanced warning signs, stop signs, and flashing lights** will be placed on both sides of each crossing to alert the public to stop.
- **Safe crossing markers** will be positioned on haul roads at 1000' on both sides of the crossings. Flagmen will signal public traffic through the crossings when no construction traffic is observed inside the safe crossing markers.

Keep Crossings Clean

- Road surfaces at and approaches to the crossings will be cleaned and maintained to facilitate safe travel.

Maintaining Quality Control

- Construction equipment will be **inspected** and maintained on a regular basis.
- Construction equipment **operators will be trained and qualified** to perform assigned duties and will be instructed to use equipment headlights at all times.
- Public road crossing safety procedures may change depending on field observations.

Dust Control

- **Dust** from the haul road and loaded truck boxes **will be controlled**. Dust from truck boxes is not expected to be a problem since the LAO material is damp when transported.
- **Dust suppressant** measures such as chemical applications (e.g., magnesium chloride) and water trucks will be used.
- **Air monitoring** will be performed downwind of the haul road and the Clark Tailings.

⑤-1

DRAFT

February 19, 1997

DRAFT FOR RELEASE

Ms. Sandy Stash
Montana Facilities Manager
ARCO
307 E. Park Avenue
Suite 301
Anaconda, MT 59711

Dear Sandy:

As you know, representatives of Atlantic Richfield Company ("ARCO") and representatives of Butte-Silver Bow ("BSB") have been engaged in discussions relating to post-remediation activities to be jointly undertaken by ARCO and BSB at the property commonly known and referred to as the Clark Tailings and Old BSB Landfill. BSB believes that it has come to a general understanding in principle with ARCO with regard to the post-remediation activities and intends, upon the concurrence of ARCO, to proceed with the negotiation of a binding and legally enforceable Agreement by and between ARCO and BSB consistent with the following general parameters:

1. Construction of Recreational Facility.

In any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, ARCO would agree to design and construct a first-class, high-quality recreational facility at the Clark Tailings area and Old BSB Landfill following completion of on-site remediation activities required by the United States Environmental Protection Agency and/or the Montana Department of Environmental Quality. The recreational complex would consist of several well-designed and constructed components, including six baseball fields, two "Little Guy" football fields, a golf driving range, a multi-function building with concession stand space, public use area, restroom facilities, storage area and equipment garage, an outdoor amphitheater, picnic areas, an entry road, parking areas, nature trails and other mutually agreed to recreational amenities, as illustrated in Attachment A. ARCO would agree to design and construct all recreational amenities represented and depicted on Attachment A. The final design of such recreational facility would be mutually agreed to by ARCO and BSB. It is understood that the financing to design and construct the facility would be provided by ARCO as part of its remediation activities, and in-kind services to install water and sewer line extensions to support the facility would be provided by BSB.

DRAFT

2. Operation and Maintenance.

Except as provided in paragraph 5 below, in any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, BSB would agree to operate and maintain the recreational facility referred to in paragraph 1 above at its sole expense, exclusive of all areas not developed for recreational use which shall be maintained as provided in paragraph 5.

3. Future Remediation.

Except as provided in this paragraph and paragraph 5 below, in any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, BSB would agree, as between ARCO and BSB, to be solely responsible for all future remediation actions required by the United States Environmental Protection Agency and/or the Montana Department of Environmental Quality with respect to the Old BSB Landfill unless such future remediation activities are required, in whole or in part, as a result of the acts or omissions of ARCO in the design and/or construction of the currently proposed remediation. In the event that such future remediation activities are required, as a result of such acts or omissions of ARCO, ARCO would agree, as between ARCO and BSB, to be solely responsible for such future remediation activities.

Except as provided in this paragraph and paragraph 5 below, in any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, ARCO would agree, as between ARCO and BSB, to be solely responsible for all future remediation actions required by the United States Environmental Protection Agency and/or the Montana Department of Environmental Quality with respect to the Clark Tailings unless such future remediation activities are required, in whole or in part, as a result of acts or omissions of BSB as related to the performance of duties under an operations and maintenance plan to be mutually agreed to by ARCO and BSB. In the event that such future remediation activities are required, in whole or in part, as a result of acts or omissions of BSB, BSB would agree, as between ARCO and BSB, to be solely responsible for such future remediation activities.

4. Currently Planned Remediation.

In any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, ARCO and BSB would agree to fully support the currently proposed remediation of the Clark Tailings and the Old BSB Landfill, as specified in the Old BSB Landfill/Clark Tailings Corrective Measures Assessment Report and Addendum No. 1 to the Lower Area One Final Work Plan/Design Report. With regard to the actions specified in these two documents, it is understood that, as between ARCO and BSB, ARCO would be solely responsible for the implementation of the currently proposed remediation of the Clark Tailings and BSB would be solely responsible for the implementation of the currently proposed remediation of the Old BSB Landfill.

5. **Monitoring and Maintenance.**

In any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, BSB would agree, as between ARCO and BSB, to be solely responsible for all on-site and off-site monitoring and maintenance activities required by the United Stated Environmental Protection Agency and/or the Montana Department of Environmental Quality with respect to the Clark Tailings and/or Old BSB Landfill. It is understood that the financing of all such monitoring and maintenance activities associated with the Clark Tailings would be provided by ARCO as part of a permanent Institutional Controls Program for Superfund reclaimed areas; such financing shall be negotiated during the construction period and be put in place on or before July 1, 1999, when monitoring and maintenance activities are expected to commence. It is understood that the financing of all such monitoring and maintenance activities associated with the Old Butte Landfill would be provided by BSB.

6. **Permits, Approvals and Access.**

In any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, ARCO and BSB would agree that all of their respective duties and obligations would at all times and in all respects be subject to the prior receipt, by agreed upon deadlines, of all necessary and appropriate permits and approvals from federal, state and local governmental entities and all necessary and appropriate rights of access and easements from property owners.

7. **Arbitration.**

In any binding and legally enforceable Agreement negotiated by and between ARCO and BSB, ARCO and BSB would include a mutually acceptable provision requiring arbitration of disputes.

If ARCO is in concurrence with the general parameters outlined above, please indicate ARCO's concurrence by signing this letter in the space provided below and returning a copy to me.

Butte-Silver Bow

By: ______________________________
Jack Lynch, Chief Executive

Concurrence:

Atlantic Richfield

By: ______________________________ Date: ______________________________
Sandra M. Stash

⑦

DRAFT MOTION RE: Communication No. 9514
The Council:

1) Recommends that DEQ approve the *Corrective Measures Assessment Report* which describes the technical procedures to be used to close the Old Butte Landfill and reclaim the Clark Tailings area under a combined project in accordance with applicable regulations and community concerns.

2) Recommends that EPA approve the *Addendum No. 1 to the Lower Area One Workplan* which describes the technical procedures to allow the use of the Clark Tailings area as an alternate repository for the Colorado Tailings, to regulate the transport of these wastes along the proposed haul route, and to conduct an effective air quality monitoring and mitigation program, in accordance with applicable regulations and community concerns.

3) Directs Butte-Silver Bow staff to submit all public comments received to the DEQ and EPA, including the record of public testimony at the Council's hearing on February 19 and continued through February 26, the written submissions to BSB through February 28, the communications from the BSB Board of Health, and other feedback received at community meetings on February 11 and February 25.

4) Authorizes the Chief Executive to sign the February 19 draft of the "Letter of Intent" to ARCO which outlines the terms associated with the construction of a recreational facility at the Clark Tailings area (post-reclamation) and stipulates responsibilities for the monitoring, operation and maintenance of both the reclaimed and recreational areas. Authorizes Butte-Silver Bow representatives to begin negotiations with ARCO to prepare a binding, legally enforceable agreement on the terms and stipulations understood in the Letter of Intent.

5) Sponsors an extended public discussion regarding the final land use plan for the Clark Tailings area. The Council will work with the BSB Parks and Recreation Board and the BSB Planning Board to solicit more public input, to review and evaluate suggested refinements to the plan, and to prepare a recommendation on the recreational components to be incorporated into the facility by April 2. The Council will then conduct a public hearing on this recommendation before making a final decision on the final end use.

ARCO

307 East Park Street, Suite 400
Anaconda, Montana 59711
Telephone 406 563 5211
Facsimile 406 563 8269

VIA FACSIMILE

March 3, 1997

Mr. Ron Bertram
Remedial Project Manager
U.S. EPA Region VIII - Montana Office
301 South Park, Drawer 10096
Helena, MT 59626

Dear Ron:

Attached are responses to comments received by letter or verbally at the various hearings and meetings on the Clark Tailings proposed project. These comments are being sent to you at this time for you and your contractor to be able to assimilate them and your responsiveness summary related to the EPA's decision on the subject.

Feel free to call Eric Jacobsen, Brad Archibald, or myself if there are any questions.

Sincerely,

for CTS.

Chuck Stilwell
Project Manager

CTS:tjb

cc: Kevin Kirley
Bob Alexander (via facsimile)
Henry Elsen
Jon Sesso
Brad Archibald (via e-mail)

file:
Chronological (w/o attachments)

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Public Hearing February 19, 1997

1. John Ray: Opposes Proposal; public safety comparison with Streamside Tailings truck haul.

   Response: See Attachment 2, Response #1.

2. Carl Hafer: Supports Proposal; county needs to address intersection.

   Response: None.

3. Cindy Stergar: Supports Proposal; want state of the art tots playground.

   Response: Recreational Facility Comment = no response needed.

4. George Paul: Supports Proposal; "Little Guy" football backer.

   Response: Recreational Facility Comment = no response needed.

5. Ken Reap: Opposes Proposal.

   (a) Catch basin is a problem.

   Response: The downgradient sediments are from historical erosion of the Clark Tailings and other disturbed soils in the Grove Gulch drainage basin. By importing the LAO materials, minimizing slopes, and installing a cap including a vegetative cover, we will mitigate erosion from the site. In the future, the amount of sediment from the Clark Tailings/Old Landfill site will be substantially less. Mr. Reap also expressed concern that we were placing more tailings within a floodplain. This is not true, all tailings from the LAO will be placed and capped in high, dry areas. Runoff from the capped tailings will be directed to the Timber Butte Sedimentation Basin (catch basin) before being discharged to Grove Gulch.

   (b) Groundwater well with iron.

   Response: See response to Cromm's concern in letter. Also, the Reap's were provided with the data from the sampling of their well conducted during the assessment of corrective measures for the Clark Tailings/Old Landfill. The data shows that there are not elevated concentrations of contaminants associated with the Clark Tailings. The high iron content in the well is not an uncommon occurrence in the Blacktail Creek/Grove Gulch alluvial aquifer

6. Tom Malloy Tentatively Support Proposal; if comments/questions in attached letter are addressed.

   Response: See Attachment 3.

7. Mike Panisko: Supports Proposal; supporter for Babe Ruth fields.

Response: Recreational Facility Comment = no response needed.

8. Steve Rodrigues: Supports Proposal; landfill overburden will be stressed by extra overburden.

   Response: The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAP materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both cap will be maintained and any settlement will be repaired.

9. Tom Whaley: Supports Proposal; wants baseball stadium, publicly owned, baseball club lead renter.

   Response: Recreational Facility Comment = no response needed.

10. Bob Green: Supports Proposal.

    Response: None needed.

11. Jim Hanley: Supports Proposal; American Legion Baseball supporter; wants input on field's design; wants one like Missoula, Bozeman, or Belgrade; current plan may be too congested.

    Response: Recreational Facility Comment = no response needed.

12. Gina Konen: Supports Proposal; Little Guy football support.

    Response: Recreational Facility Comment = no response needed.

13. Venita Whitford: Not Necessarily Against Proposal; drainage problem concern.

    Response: Drainage structures, including ditches and ponds, are incorporated into the design. This includes an engineered ditch along the east edge of the Clark Tailings (this is the area Mrs. Whitford was concerned about).

14. Cynthia Kromm: Supports Closure.

    (a) Clay material must be appropriate.

    Response: See response to Board of Health comments 8 through 12.

    (b) Monitoring deep aquifer - need baseline deep aquifer data.

    Response: Deep aquifer: see response within body of letter.

15. Evan Barrett: Supports Proposal; adequate public input is necessary; more time is needed for land users; Project Green delegated responsibility for getting public input.

Response: Recreational Facility Comment = no response needed.

16. Jim Kuipers: Attached memo lists concerns (see attached memo).

    Response: Substantive comments either addressed in Attachment 2 or Brad Archibald's letter (Attachment 3).

17. Jim Keane: Supports Proposal; "Win-Win" with tailings moved to Clark Tailings.

    Response: Recreational Facility Comment = no response needed.

Public Meeting February 25, 1997

1. Dave Kneebone: Crossing needs concrete pad; Decon for trucks; Liability to County for crossing; Flagging safety -can't make trucks stop, -inherently more safer to have public stop; Should base plan on experience from Anaconda, Coal Company

   Response: See Attachment 2, Response #2.

2. Charlie O'Leary: Length of work for flaggers -will they work 10 hours straight, -how will we keep them alert.

   Response: See Attachment 2, Response # 2

3. Ken Reap: Is the Grove Gulch tailings downstream of Clark Tailings to be cleaned up with this project?

   Response: This area is not part of the Clark Tailings. ARCO will consider addressing the issue of surficial tailings in Grove Gulch if we get full approval of solution under the Butte Priority Soils Operable Unit (BPSOU).

Mary Kay Craig February 23, 1997 Letter (response only)

Bullet 1: Materials in floodplain/increased mobilization

Response: see response to Reap comment from February 19, 1997 meeting.

Bullet 4:

Response: ARCO is responsible for providing funding for permanent site maintenance related to the remedy.

Bullet 4:

Response: See Attachment 2, Response #1.

Bullet 7:

Response: See Attachment 3, Response on VOC's.

Bullet 8:

Response: See Attachment 2, Response #3.

Public Hearing Comments February 26, 1997

1. John Ray: Cap Design Desiccation; Potential problems with cap include: Freeze/Thaw Cycle, Maintenance, Erosion, Biointrusion, Differential settlement.

   Response: Freeze/thaw, etc.: Freeze/thaw is a concern and was addressed during design. Freeze/thaw damage can raise hydraulic conductivity of the low permeability soils. The soils we are using exceed the hydraulic conductivity specification by more than an order of magnitude; therefore, it can sustain some freeze/thaw damage and still meet the specifications for the infiltration barrier layer. Also, the cap design includes compacted waste below the infiltration barrier layer (to assist in the preventing infiltration); a drainage layer to get water off the infiltration barrier layer so as to minimize freezing potential; and 18-inches of cover soil to provide some insulation over the infiltration barrier layer.

   Maintenance of the cap will be provided as required by MDEQ regulations and as is necessary for the recreational facility. Erosion of the properly vegetated cap is not anticipated to be a significant problem. With 18-inches of cover soil on the Clark Tailings, and maximum slopes of 25%, we will be able to establish a healthy vegetative cover. This will minimize erosion potential. On landfills, establishing a vegetative cover is sometimes difficult because of landfill gas replacing oxygen in the root zone. We will be venting landfill gas which will mitigate this problem.

   Biointrusion (i.e. gophers) is not currently a problem at the site. Regular maintenance of the cap will detect and repair any problems associated with biointrusion.

   Differential settlement/subsidence: The design for the LAO fill and Clark Tailings cap considered settlement and subsidence issues. The compaction specifications for the LAP materials is designed to prevent unacceptable levels of settlement in the future. Settlement, particularly differential settlement, on the landfill cap is more of a concern. Therefore, no structures are planned on the landfill cap. Also, final grades on this cap are greater (with an average of 5%) to account for some future differential settlement. Both cap will be maintained and any settlement will be repaired.

2. Vernita Whitford: Supports plan, but doesn't want ballfield, wants trails and playground.

3. Carl Hafer: Supports Proposal; Proponent-Advocate for ARCO quality, safety.

4. Brian (?): Wants tree screen to east, concerned about long-term maintenance.

5. Daniel Malloy: Concerned about intersection at Hansen and Montana Street.

6. Wayne Paffhausen: Wants park in SE part of town/High Altitude Center with stadium.
7. Arnie Barnett: Concerned about short time of comment regarding recreation facility.
8. Bob Becker: Wants revenue generator, golf course.

ATTACHMENT 2

LAO/Clark Tailings Project
Responses to Public Comments

1. Public meeting, 2/19, John Ray; Bullet #5, CTEC letter, 2/23, Mary Kay Craig: **Transportation safety with trucks compared to SST and accident statistics.**
The transportation route from LAO to Clark Tailings crosses two public roads which are normally traveled by nearby residents only. The remainder of the transportation route is off-road haul through a non-residential corridor. This transport route will not change over the course of the LAO/Clark Tailings project. The alternative to truck haul to Clark Tailings is rail haul to Opportunity. Rail haul has its inherent dangers and inconveniences, namely the several public road crossings-- including Highway 1--between LAO and the Opportunity Ponds. Additionally, the LAO project will be completed 1 to 2 years faster by truck than by train to Opportunity

   Unlike the constant haul route from LAO to Clark Tailings, the truck transport routes from Streamside Tailings to Opportunity Ponds would have been on or across major public roads at several locations. Specifically, travel from subareas 1 and 2 would have involved hauling on several county roads and I-90. ARCO previously argued that because of the dynamic nature of the SST truck haul and because considerable interference with the public would occur at varied and changing locations on and across public roads, the alternative of in-situ treatment of SST materials is much better for public safety. Public safety risks associated with over-the-road haul situations are much higher than compared to crossing situations as is the case for the proposed haul to Clark Tailings.

2. Public meeting, 2/25, Dave Kneebone; public meeting, 2/25, Charlie O'Leary; Issue #1, Jim Kuipers letter, 2/14 : **Crossing safety, crossing surface, decontaminate trucks, flagging safety, trucks should stop, experience with private/public crossings, etc.**

   ARCO is fully committed to making safety a priority on this project just as it does on all projects. Public road crossings will receive special attention. Planned safety policies and procedures at the road crossings have been conveyed at public meetings, through the public safety fact sheets distributed at public meetings, and in Addendum 1 to the LAO Phase I, Segment II Work Plan/Design Report. In summary, these policies and procedures include two flagmen at each crossing with radio communication between construction traffic and each other; traffic signs and lights; trained flagmen and equipment operators; requirements for the public to stop every time at road crossings during construction work hours; provisions for cleaning and maintaining the road crossings; safe crossing markers on each side of the road crossings; and frequent evaluations of the effectiveness of crossing safety.

   These policies and procedures have been developed from experienced ARCO and contractor personnel, similar policies at mines and other construction sites where haul trucks maintain the right-of-way, the Federal Manual of Uniform Traffic Control Devices, ARCO's experience crossing Highway 1 near Anaconda during the Arbiter removal, and input from public officials. These resources concur that it is much more safe to request relatively infrequent public traffic to stop at the crossings than it is to require large, frequent haul trucks to stop.

ATTACHMENT 2

In consideration of public traffic needs, the crossing surfaces will be maintained to promote safe travel. This will include an overlay of asphalt on the existing road or the equivalent. If the overlay surface is damaged, it will be repaired. Once hauling activities are complete, the crossing surface will be returned to its existing or better condition. The crossing will also be cleaned promptly in the unlikely event that materials from haul trucks are spilled on the crossings. However, care will be taken when loading haul trucks to ensure that material spillage on haul roads is minimal, if any. From past experience on the LAO project, materials trackage and spillage from haul trucks has not been a problem. Additionally, most of the haul road is off-road where minor material spills would not impact the public and would be cleaned up as needed. Thus, decontamination of trucks is not expected to be necessary.

The two flagmen at each crossing will communicate closely with each other and the equipment operators. The flagmen will complete and document daily inspections of the crossings. One flagman will be the leader at each crossing to avoid sending confusing signals to the public or equipment operators. Construction foremen and site supervisors will check on the flagmen regularly during the day and will provide them with breaks as needed.

Crossing signs and lights will be sized and located according to the Federal Manual of Uniform Traffic Control Devices. Signs and lights will be decommissioned during non-working hours.

3. Bullet #8, CTEC Letter, 2/23, Mary Kay Craig: **Connection between NRD lawsuit and expedited cleanup between at LAO.**

   There is no connection between the desire to expedite the LAO cleanup and the Natural Resource Damages (NRD) lawsuit.

4. Items 1,2,3 , 2/19, BSB Board of Health Letter: **Ambient air quality monitoring, point of contact to report dust, responses to problems.**

   This response is in place of response provided in Brad Archibald's letter response to the Board of Health.

   The EPA has directed ARCO to conduct ambient air quality monitoring for the proposed activities. ARCO has agreed to perform the monitoring. A monitoring plan is currently being developed by ARCO and has been forwarded in draft form to the BSB Board of Health, EPA, and MDEQ. The final plan will be submitted to EPA in the LAO Phase I, Segment II Work Plan/Design Report Addendum 1.

   ARCO plans to monitor for PM10 and heavy metals using air monitoring equipment stationed along the haul road and at Clark Tailings. The monitoring plan will include appropriate contact personnel. Additionally, media releases and a sign at Clark Tailings will include names and numbers of contact personnel.

   The air monitoring plan will include provisions for correcting fugitive dust emissions including, but not limited to, additional water trucks and use of surfactants or other chemical agents. A

loaded water truck and "on call" driver will be available during non-working hours in case dust problems arise.

5. Issue #1, Jim Kuipers letter, 2/14 : **Dust and noise pollution during construction**

   Dust will be controlled using water trucks and/or chemical applications as explained in the LAO Phase I, Segment II Work Plan/Design Report Addendum 1. Air monitoring will be conducted as described above to ensure dust control measures are adequate.

   Noise levels will be similar to what is currently being experienced during Montana Pole and Treating Plant remedial activities. Additionally, residents near the Clark Tailings site should be far enough away from construction activities that noise will not present significant inconveniences.

6. Issue #4, Jim Kuipers letter, 2/14 : **Why change the plan?**

   The primary reason to change the plan is to expedite the LAO remediation schedule. The LAO cleanup can be expedited by 1 to 2 years hauling by truck rather than train. The existing train haul approach is counterintuitive; i.e., significant cleanup activities both upstream (Butte Priority Soils Operable Unit) and downstream (Streamside Tailings Operable Unit) of LAO would be occurring prior to completion of the LAO work. Under the accelerated schedule for LAO, several areas requiring remedial activities would be positively affected and the remediation sequencing makes much more sense.

   Also, the Clark Tailings and Old BSB Landfill sites will be remediated concurrently with LAO. Remediation activities at all three sites should be completed by mid-1998 at the latest. The Butte community will ultimately realize the benefits of a recreation complex constructed at the Clark Tailings site.

ATTACHMENT 3

February 26, 1997

DRAFT

Dan Dennehy, Director
Butte-Silver Bow Health Department
25 East Front Street
Butte, Montana 59701

Dear Mr. Dennehy:

This letter is intended to provide answers to the technical questions that have been raised regarding the proposed Old Landfill/Clark Tailings project during the public comment process. Below, I address the questions and comments from the Butte-Silver Bow Board of Health in their February 18 letter to Chief Executive Lynch (Attachment A). Responses to the technical issues raised by Jim Kuipers of CTEC in his February 14, 1997 letter to BSB, CTEC, EPA, MDEQ, and ARCO are embodied in the answers to the Board of Health questions below. Finally, I provide responses to other technical questions raised by the public during the public meetings and hearings to date.

1. The U.S. Environmental Protection Agency (EPA) has directed ARCO to conduct ambient air quality monitoring program for the proposed activities. ARCO has agreed to perform the monitoring. A monitoring plan is currently being developed by ARCO and will be submitted to EPA in the LAO Expedited Response Action Phase I, Segment II Work Plan/Design Report Addendum for approval before construction begins.

2. Appropriate contact personnel will be included in the air monitoring plan discussed above. The method of notifying the public of the contact person(s) will be included in the plan.

3. The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

4. The 8.5 tons per year reported in the Final Draft, Butte-Silver Bow Landfill/Clark Tailings Corrective Measures Assessment is based on EPA's conservative default values for non-methanogenic organic compounds (NMOCs) concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. (It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the Montana Department of Environmental Quality if the facility may require an air quality permit based on default values.) The intent of utilizing the default values was to show that even with the conservative default values, the Old BSB Landfill is not expected approach regulatory action levels. (These include the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year.) Actual gas generation rates are expected to be much lower. Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic

conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system is intended to be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan will be developed and implemented to correct these problems.

5. Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan will be implemented if odors unexpectedly become an issue. The contingency plan may include higher stacks for venting

6. EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (441-1150) is the designated contact with EPA. MDEQ is the lead agency for placement of the materials at the Clark Tailings; installation of the caps over the Clark Tailings and the landfill; and installation of the gas venting system. Pat Crowley (444-5294) is the MDEQ point of contact. In this role, MDEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Clark Tailings. During placement of the materials at the Clark Tailings and installation of the cap, MDEQ will be the lead agency. However, MDEQ will retain EPA construction oversight representatives to provide day-to-day construction oversight.

   Both agencies must approve portions of the overall reclamation plan. EPA must approve the Clark Tailings as an appropriate disposal location for the Colorado Tailings and the plans for excavation and transportation of the Colorado Tailings. MDEQ must approve the plans to

place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill. MDEQ must approve a the construction quality assurance plan for the Clark Tailings cap, which specifies the field and laboratory testing that must be conducted to determine if the cap materials and construction satisfy the specifications.

7. BSB does not have a direct voice during construction. BSB does have review and approval authority during the design process. The County can voice its concerns through EPA and/or MDEQ. Any changes to the design during the construction process must be approved by MDEQ. At BSB's request, MDEQ has agreed to involve BSB in the approval process to any proposed changes to the design

8. No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravels are specified for use as a capillary break to prevent the capillary rise of acids and/or metals from the underlying mine wastes. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

9. The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

   Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

   Structure foundations may require excavation of the infiltration barrier layer. (Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility.) If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

10. Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any damage to the infiltration barrier layer caused by any unforeseen retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

11. The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the materials ("clay") used for this layer is not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. The minimal amount of water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer daylights to surface water ditches around the perimeter of the site.

12. It will be possible to separate much of the underlying clay from the tailings. This was the case during the construction of test pads of these materials during the July 1996. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings. In this case, these mixed materials will not be used for the infiltration barrier layer. Instead, they will be disposed with the tailings and capped with materials suitable for use as the infiltration barrier layer. EPA and/or MDEQ officials will be present during construction (both the excavation of LAO materials and the installation of the Clark Tailings cap) to ensure that only suitable materials are used for the infiltration barrier layer.

    An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. MDEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

    If there is not enough acceptable material from beneath the Colorado Tailings to complete the Clark Tailings infiltration barrier layer, there will be adequate materials from the Hollow or other nearby borrow sources. A 1996 test pit investigation showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source alone.

13. Surface water runoff collected in the ponds is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent

impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

14. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. Assuming the BSB maintains the structures properly, this should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

    No recreational facility structures are within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, are within a designated floodplain.

15. There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other CERCLA activities, most likely as part of the Butte Priority Soils Operable Unit of the Butte Area NPL Site.

16. ARCO and their contractor will utilize perimeter fencing and gates, on-site construction representatives, and possibly contracted security guards, to prevent unauthorized access to the site during construction. Perimeter fencing will be incorporated into the recreational complex plan to prevent unauthorized access.

17. In response to this comment, the Council of Commissioners has extended the public comment period to February 28, 1997. In addition, the Council has scheduled two additional public meetings on the subject: one on February 25 and the Butte Community Center and one on February 26 in Council chambers. The Council will vote on the issue on March 5, 1997. If the Board of Health feels that this is still not an adequate amount of time for public review and comment, they should discuss this with the Council and/or the BSB Planning Department.

During the public comment period, the question of the effectiveness of the groundwater monitoring system to detect contaminants present in the "deep aquifer" has been raised. The individual (Cynthia Cromm) making the comment is concerned that we are monitoring the "near surface" water, but are not monitoring lower, where people utilizing the aquifer are drawing their water from. As I have discussed with Ms. Cromm, the groundwater monitoring system in place at the site is approved by MDEQ and will detect any contamination emanating from the site. There is no "shallow" or "deep" aquifer at the site that can be used as a groundwater source. By

measuring near the surface (utilizing accepted, proven groundwater monitoring procedures in accordance with groundwater monitoring), we will detect any contamination from the site that may be a threat to downstream groundwater users. Downgradient of the site, contaminants from the site will be present at nearly equal concentrations throughout the aquifer due to chemical diffusion of the contaminants. At the boundary of the site, there may not have been sufficient time for full diffusion of the contaminants to occur. Therefore, by monitoring near the surface of the aquifer, we are monitoring the location where contaminant concentrations would be the highest.

Also during the public comment period, the issue of truck exhaust/diesel fumes during inversions has been raised. The work is scheduled to be completed between March and November. Therefore, the truck traffic will not be during peak periods of inversion formation in Summit Valley (generally from December to February).

I hope this provides the information the Board of Health requires to fully endorse the proposed project. If you have any additional questions or require more clarification on any of these items, please give me a call at 782-5177.

Sincerely,

Brad Archibald, P.E.
Senior Engineer

Attachment (BSB Board of Health List of Concerns/Questions)

cc: BSB Council of Commissioners
Jim Johnston
Chuck Stilwell, ARCO
M. Dianne Smith, ARCO
Ron Bertram, EPA
Jack Lynch
Jon Sesso
Eric Jacobsen, ARCO
Pat Crowley, MDEQ

BUTTE-SILVER BOW
Office of Council of Commissioners
Courthouse
Butte, Montana 59701

February 28, 1997

Aaron Hildreth
3998 Blacktail Loop
Butte, MT 59701

Dear Aaron:

Thank you for your letter of interest in the Clark/Colorado Tailings Project. I am forwarding it to the Courthouse so that it may be added to the considerable amount of public comment we have already received. I will also send a copy of your letter to the Parks and Recreation Board, who will be looking at "end uses" for the land, if the project is approved next week.

There were many people who expressed environmental concerns in the area of dust monitoring, underground water pollution and surface run-off. The technical advisors we rely on have done an exhaustive job at answering these concerns and providing for public health and safety.

The environmental challenge will be the need for thorough monitoring of this site well into your lifetime.

For myself and fellow commissioners, you have our support and praise in your efforts to make Butte a better plan to live.

Sincerely yours,

Charlie O'Leary

Charlie O'Leary
Commissioner, District 5

CO/hw

cc: Bob Rawlings, P and R Board w/Aaron's letter
Clark Tailings Public Comment File w/ Aaron's letter

Aaron Hildreth
3998 Blacktail Loop
Butte, MT 59701

Feb.
~~January~~ 24, 1997

Charlie O'Leary
3060 Beef Trail Road
Butte, MT 59701

Dear Mr. O'Leary:

I am twelve years old, a Boy Scout, a prior Little Guy football player and Mile High baseball player. I am writing to you concerning the Colorado Tailings and the Arco proposal to clean-up the mine waste, because you are my precinct's County Commissioner. I think a park for football and baseball is a good idea. Butte needs more places for kids to play and another place besides City Parks and baseball fields to use for football practice and games. It would be fun to get more things to do in Butte during the winter, too. Do you think there is a better idea?

I know you live just beyond the proposed site and must be concerned about the handling of the tailings and the environmental concerns of the proposal, too. Would you let me know if you think there are environmental problems with the proposal.

My Scout Troop and I want to make Butte a better place and like to get involved in community projects. Please let me know your feelings and anything we can do to help. Thank you.

Sincerely,

Aaron Hildreth
First Class Scout

February 28, 1997

Mr. Jon Sesso
Butte Silver Bow
County Planner
NEC Granite & Montana
Butte, Montana 59701

Re: Proposed park to be situated at the old city landfill-ARCO Clark Tailings Reclamation

Dear Jon,

I just wanted to make a few comments regarding the proposed park which would be built by ARCO at the Clark Tailings site.

I am a landowner on Beef Trail road and am beginning the construction of a home there this spring.

In my opinion one of the main considerations regarding the design of a recreational site at this location is that it should provide a setting that will offer enjoyment to a large sector of the community. It should be available for diverse activities that can take place throughout the entire year.

This opportunity for such a park can offer a community gathering site of the size and flexibility of no other site currently in existence.

The current proposal for the site to consist of numerous softball fields would provide a limited opportunity for a small, but vocal sector of the community. This activity is very limited also due to the short time frame that it is in demand.

Due to ARCO'S responsibilities at this location, other opportunities that have been discussed at other locations seem to be remote possibilities.

Hopefully, when all is decided we will have a community activity center that will add enjoyment to many and expand the opportunities and activities in this community.

Sincerely,

Jennifer Cashell

MONTANA RESOURCES

FAX

FROM: MONTANA RESOURCES
600 SHIELDS AVE., BUTTE, MONTANA 59701
PHONE: 406/723-4081
FAX #: 406/723-9542

DATE: 2/28/97

TO: Jon Sesso - County Planner

FROM: Jennifer Cashell - Acctg. Manager

NUMBER OF PAGES TO FOLLOW: 1

MESSAGE:

IMPORTANT: This message is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at once at the address above via the United States Postal Service. THANK YOU! IF YOU DO NOT RECEIVE ALL OF THESE PAGES, PLEASE CONTACT Debbie

Date: 2/28/97

RECEIVED FEB 28 1997

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely,

Jane Markovich

Name: JANE MARKOVICH

Address: 318 GALAXY DRIVE
BUTTE, MT 59701

Telephone: 782-1043 EXT. 211 (WORK)
494-3432 (HOME)

THE **BUTTE** MONTANA CHAMBER

February 28, 1997

Jack Lynch
Chief Executive
Courthouse
155 W. Granite
Butte, Montana 59701

Dear Jack:

The Butte Silver Bow Chamber of Commerce Board of Directors has unanimously endorsed the plan to move the Colorado Tailings to the Clark Tailings site. It will save money and time and result in something positive for Butte upon completion.

We leave it to the planners to come up with something that will suit the majority of residents. We know that safety issues are a priority and are being taken seriously and we support that.

Sincerely,

Dennis Wright

Dennis Wright, President
Butte-Silver Bow chamber of Commerce

2950 Harrison
Butte, Montana 59701
Telephone: 406-494-5595
FAX: 406-494-5188 • 1-800-735-6814

Date: Feb. 26, 1997

RECEIVED FEB 28 1997

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely,

Mary Weinstock

Name: Mary Weinstock

Address: 3049 Atherton Lane
Butte, MT 59701

Telephone: 494-0065

Date: 2/26/97

RECEIVED FEB 28 1997

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely, Judy Rees

Name: Judith A. Rees

Address: 16 Cedar Lake Drive
Butte, MT 59701

Telephone: 494-5415

COMMENTS FROM THE CONTINUATION OF THE PUBLIC HEARING AT THE COMMITTEE OF THE WHOLE MEETING

FEBRUARY 26, 1997

SECTION I CONTINUATION OF PUBLIC HEARING

FOR THE PURPOSE OF PRESENTING THE PREFERRED CORRECTIVE MEASURES AND CLOSURE PLANS AT THE OLD SILVER BOW LANDFILL AND THE CLARK TAILINGS; DISCUSSING THE USE OF THE CLARK TAILINGS AREA AS A DISPOSAL SITE FOR MATERIALS FROM THE COLORADO TAILINGS AND THE BUTTE REDUCTION WORKS; AND DISCUSSING THE DEVELOPMENT OF A PROPOSED RECREATIONAL COMPLEX TO BE CONSTRUCTED AS PART OF THE CLOSURE OF THE CLARK TAILINGS AND OLD SILVER BOW LANDFILL.

CHAIRMAN KERNS - I would ask that any of the people that are in the audience tonight that wish to comment, that there is a sign-up sheet in the back of the room. We ask that you sign that sheet if you intend to speak. We also ask, there is another sheet in the back of the room, if any of you wish to give written comments if you would sign that prior to presenting written statements to the Council. I would also ask that each of you as you decide to come forward in an orderly fashion, that you come to either of the microphones on either side of the room. Give your name and your local address if you would please. At this time we will open the public hearing and I would call on Jon Sesso to give the staff report.

JON SESSO - Thank you, Mr. Chairman. Everybody has been well-advised of the actions. Just as a quick overview - the concept is the old landfill needs to be closed. The Clark Tailings area needs to be reclaimed and in a combined effort DEQ has allowed us to consider the closure of these two areas as one closure and one opportunity to clean up that area. As part of that closure activity a corrective measures report has been prepared by our consultant to identify the proper lay of the cap and close the landfill and reclaim the Colorado Tailings. In addition, it has been brought forward to use the Clark Tailings area as a repository for the Colorado Tailings waste. These wastes would be transported to the Clark Tailings via this route along the old railroad right-of-way and then subsequently capped in place and over that would be a safe barrier to protect the environment and then on top of that would be a recreational complex. That's the general concept. I would like to just quickly review where we've been and where we're leading to. I should start by saying that on January 28th the Department of Environmental Quality and EPA gave tentative approval to the plan and a technical documentation submitted by Butte-Silver Bow and ARCO for how they would go about this clean-up. On February 5th, we introduced the concept of the proposal to this body. We announced a public meeting that was held then on February 11th. We started the public hearing that we are continuing tonight on February 19th. At your direction on the 19th a second community meeting was held. That meeting was held last night. This evening there is a continuation

of the public hearing that began on the 19th and written comments was extended from February 21st to the 28th, this Friday. The next step at the conclusion of the public hearing this evening will be to provide written responses to several of the technical questions that have been raised and for the Council to take action on March 5th to make its recommendation to the EPA and the DEQ on your position regarding the general proposal that has been laid out before you. Subsequently then, the DEQ and EPA will make a decision on whether to approve the plan as it has been proposed or approve it with changes or not approve it at all and then the activity will either commence subsequently the week following or not happen at all. The next thing we wanted to do, just as a way too introduce the public hearing this evening, is that over the course of this month we have received a lot of input and a number of technical questions about the plan and I have asked our consultant, Mr. Brad Archibald, to just offer the council a brief overview of what those questions have been and the technical answer that we intend to provide you and all members of the public prior to next Wednesday. So, with that at your discretion I would introduce Brad Archibald just to give a quick technical overview of these questions and then open it up to public statements.

BRAD ARCHIBALD - I'll try to follow the three minutes here. I'm Brad Archibald with Pioneer Technical Services. The Board of Health, in addition to many other people, have provided some technical questions, comments, concerns with the project. What I have done is try to paraphrase their 17 questions and then I will provide our responses to those in a quick format here. By addressing those 17 questions we will, for the most part, address the other technical issues that have raised by the public during this process and if there is anything I leave off or any questions you folks have for me, when I finish I would be glad to address those also.

The first portion of the questions from the Board of Health and from the public also have to deal with air monitoring and dust control. In regards to that, EPA and ARCO have agreed to implement an air monitoring program. To that end a monitoring plan is now being developed by ARCO that will be submitted to EPA for review, comments and ultimately approval as part of the ARCO work plan addendum. The first draft of that is out there right now available for public comment. This air monitoring plan will be included in the revision of that and must be approved by EPA. That plan will identify the appropriate contact people to get hold of in case there is dust problems during working hours, and as the Board of Health requested, dust problems that occur during non-working hours. So, if dust is blowing on Saturday, no one is working and there's dust problems, they will know who to get ahold of so they can get out there and get the water trucks on that site and take care of that problem. And, I'm sure that plan will identify the response actions they will be taking in case there are air quality concerns or problems.

Second general question from the Board of Health had to do with volatile organic compounds and odors from the landfill portion of the site. Let me state again as I did last week, that landfill gas is being produced at that landfill now and will always be produced. We cannot prevent that. The anticipated gas production rates at that landfill are well below all regulatory action levels for acquiring an air quality permit. Those action levels

are based on environmental and health issues. I think it is also worth pointing out that the peak gas production year anticipated is behind us. That peak year was 1995-- one year after the closure of the majority of the landfill. What that gives us is two years between the time we installed the gas vents proposed as part of this plan and when the park is intended to open to monitor air quality around those vents. So, we will implement a plan to do that, to get out there with methane meters and non-methagenical compound monitoring devices as necessary to monitor air quality. So, we are sure when we start opening this thing up to the public we don't have air quality problems.

Their general issue raised by the Board of Health is project administration and construction oversight. How are we going to be insured that these this thing is built properly. I clarify again that the Department of Environmental Quality has regulatory oversight for. the requirements at the Clark Tailings themselves. EPA has the oversight authority for the removal of LAL and the transportation of materials to the Clark Tailings. It appears that construction oversight officials will be utilized by the Department of Environmental Quality to provide day to day construction oversight while the materials are being placed at the Clark Tailings and the cap is (inaudible because of coughing in background). In addition to the EPA folks providing oversight, right now in front of the Department of Environment Quality is a construction quality assurance plan prepared by ARCO that has very specific requirements in it to test the materials that will be used for the cap both in the laboratory and the field to make sure they are appropriate for use as that infiltration barrier layer that we discussed at great length here and the other materials in that cap. The Board of Health is also concerned about what if there are changes during the construction process. What might happen? How are we going to voice in those changes the Department of Environmental Quality has committed to evolve. They must approve any changes that happen during construction and they have committed to involve Butte-Silver Bow in that approval process. The Board of Health asked why there is no lime or limestone involved in the cap. At this site with this cap design we are not too concerned about neutralizing or buffering water that infiltrates down through the cap into the tailings. We are more concerned with capillary rise of metals up through the cap and to the surface. That is the intention of the capillary break. Limes don't get active in that capacity. Reactive materials that bond to limestone degrade over time . The coarse gravel that we have shown in our cap design is proven effective and is the appropriate material before this cap.

The Board of Health and others have also expressed concerns about construction on top of this cap once it is in place. How are you going to put in light standards? How are you going to get in water and sewer lines? How are we going to plant shrubs and trees and grasses? The design as it stands right now call for areas pocketed with deep soils so that we can plant shrubs and maybe some shallow-rooted trees in those areas. With respect to light standards and other penetrations of the infiltration barrier layer, those can be sealed with geothetic materials, membranes or those penetrations can be sealed with bentonite chips to make sure the integrity of that cap is not compromised and continues to act as an infiltration barrier layer. In general the issue of the suitability of the materials for that infiltration barrier layer have been questioned. More particularly, ARCO is proposing to

use some materials that come out from the LAL from below the tailings, a native (inaudible) from there. The Department of Environmental Quality has said that they will accept those materials based on extensive testing that we conduct that includes testing gradations and physical properties of those materials to make sure that they meet the specifications for the materials that we tested previously so we get that impermeable layer that we want. There has also been concerns raised about the metals content of the those materials. We worked with the Department of Environmental Quality and arrived at a leaching procedure, an EPA standard testing procedure, to test the metals content of those materials and if those materials leach metals that exceed groundwater protection standards, which is a very, very stringent standard, they will not be accepted by DEQ for use as that barrier. The issue about whether the materials can be separated from the tailings during excavation has also been brought up. When we built the test pads, it was my personal experience during that we could separate those materials, a large portion of those materials not all of them. So, there will be some that is rejected as the excavation is occurring. EPA personnel will be on site to oversee that call. That will be a call made as excavation is occurring. Some materials will not be suitable for the cap. Some will. That will be backed up by the construction assurance testing I talked about previously.

What does the last general comment have to do with safety of the haul road? I would refer to the factsheet that was distributed last week for people's questions on safety and defer to ARCO. That is not my specialty, the safety of that haul. So, I would defer to ARCO staff in the audience if there is further questions regarding safety. As I said, to paraphrase very quickly what we believe the major comments that concerns our written response will be available for the council before next Wednesday's meeting. Hopefully, they will be available on Monday. We don't want to provide that written response until the written comment period from the public is closed and we can try to address everybody's concern. Thank you.

MR. KERNS - Thank you Brad. Does any member of the Council have any questions for Brad? Mr. O'Leary.

COMMISSIONER O'LEARY - Brad, the culvert I guess that goes underneath the Clark Tailings now that carries Grove Gulch, has anyone or will anyone physically go through that thing on the inside to look at the integrity of it -- to make sure that when that's running water isn't going to go out through it or nothing will be able to leach into it?

MR. ARCHIBALD - No one has gone through or physically inspected the integrity of that structure which was put in by the SPS in the mid-80's I believe. The concern, if it is leaking, would be if it were to cause groundwater contamination problems. Our groundwater monitoring program has shown localized areas, as I talked about briefly last week, underneath the Clark Tailings themselves. We do not see those groundwater contaminants (inaudible) the study (inaudible) around that diversion. We see it immediately below the area where water ponds at the surface and flows through the tailings. So, my inclination would be that that would not be necessary because we don't

see a physical or chemical problem being caused by that. You could run a camera up that pipe to inspect its physical. I don't want to crawl up it myself.

COMMISSIONER O'LEARY - I guess one of my concerns -- I don't know how deep that is underneath where this haul road would be, but

MR. ARCHIBALD - About ten feet.

MR. O'LEARY - About ten feet -- .as the fellow was saying last night there is going to be about 34,000 truck trips. I don't know if that will have an impact on that pipe or not.

MR. ARCHIBALD - Ten feet down and if we build the access road correctly, it won't harm the physical through that pipe. We can put a camera through there and take a look.

MR. KERNS - Any other of the commissioners have any questions? Brad, thank you very much. Jon, is there any other staff reports.

JON SESSO - I think it would be better to go forward with the public comment. While Brad addressed a lot of the technical questions, there are a lot of social impact questions that have also been raised in the last month. These questions have to do with the specific elements that are being proposed for the park and recreation area, what's proposed there, more specifically what is not proposed there. There has been input about what would be the procedures or the operating policies of this park. Can we restrict the time that it is lit, can we restrict the amount of or the length of games, the night time use. Can we think in terms of perhaps creating a non-alcoholic area for children only. There have been a number of excellent suggestions that relate to what type of facility we would put on top of the constructed cap. I guess we can report that the window of opportunity to define the specific land use is a little bit more open than we had originally thought. ARCO has indicated that we have a little more time while it is important that the decision whether or not we move forward with the transfer the Colorado Tailings to the Clark Tailings be made soon, we do and may have at least maybe the full month of March and maybe a little more time to make final decisions on the land use that would go on top of the facility. The (inaudible) Board has volunteered and continue the public discussion on what recreational facilities would be most appropriate and believe they would make a recommendation to you and include the council in that deliberation, include as many members of the public and would sponsor some additional public meetings in March to try to make the best decision we can about what to put on top. As Brad said, the issues with safety and the haul route and the truck route -- those are all legitimate concerns that we believe are addressed appropriately in the safety plan that ARCO has submitted to EPA and then lastly, the issues associated with the business deal, as we have begun to call it, between the county and ARCO. With respect to long-term liability, ARCO's commitment to build the recreational facility, etc., is outlined in the letter that was passed out last week and you know, in a nutshell, ARCO has agreed to construct the facility as this county and you would recommend it. Any future problems that emerge with respect to liability from the Clark tailings area and the Colorado tailings being on top of the Clark tailings area would

continue to be the responsibility of ARCO. Butte-Silver Bow would retain the responsibility with any problems associated with the landfill area As we stated last time, Butte-Silver Bow would be taking on the business of maintaining the new recreational facility and we have to work together to determine the appropriate way to get that job done and you know we also have to work together with respect to the off-site transportation issues and the traffic, no one has denied the necessity to work together as a council and as the public to find the necessary resources to correct the transportation issues that will be intricately involved in the success of the park and so those are the things we have been talking about for a month and I think we should hear what the public has to say here this evening and Brad and other local government officials are here to answer any additional questions as they arise.

MR. KERNS- Thank you. Jon. We will now open the public hearing. At this time we will call for proponents. Anyone -- John, did you have a question?

JOHN RAY - Not a question, I will just start off.

MR. KERNS - OK, we are going to call for proponents first. Anyone in favor of the project. if those people would come to the microphone and identify themselves.

JOHN W. RAY, 915 W. Galena - I want to start out by saying I want to compliment Mr. Dennehy and Mr. Malloy. The Health Department letter I think was an excellent report, raised excellent questions, is probably one of the best things that I've seen come out of the Health Department regarding a Superfund issue. So, I think myself I personally would like to congratulate them on what I feel was an excellent document with excellent questions. I just think there were technical questions that need to be addressed and I wanted to focus primarily on the issue with regard to the cap because I think that's a critical part of this proposal. If the cap doesn't work, then all of the land use that comes after it's capped, whether it's children, tots, teenagers or what have you, are going to be at risk. And I did some research in some of the standard texts on constructing covers for landfills and for toxic and hazardous waste and I just wanted to share some of the problems that these authors found in caps that are very similar to what's proposed for the Clark Fork, or for the Clark tailings area. The first quotes, and I would also direct these comments to the people from EPA and if anybody is here from DEQ because it relates to their concerns under Superfund. I would first approach this from a book entitled "Geotechnical Practice for Waste Disposal". It's by a professor of civil engineering at the University of Texas in Austin, David Daniel, and it's one of the standard books. He sees four potential problems with the cover such as proposed here this evening. The first is defecation which could cause a cracking of the cover and exposure to toxic materials. The second problem he sees, and it particularly applies he said to the Rocky Mountain Region, is the freeze, thaw cycle that changes the structure and the fabric of the cover and particularly the compacted clay in a way that increases hydraulic conductivity and that could lead to problems. A third problem he sees is that a cover such as proposed here would be very hard to build correctly and in his research he has seen 60% of them done incorrectly. Four, he said it's very difficult to maintain and it's very difficult to repair. It's

very costly, and it necessitates frequent repairs which would mean at least frequent monitoring of the situation and that was in issue that I raised last week. Whether or not DEQ has sufficient staff to do this. Mr. Crowley assured us that he was going to take a personal interest in the project but Mr. Crowley is not going to be the person , if this is approved, who is out in the field doing it.

So, the second source that I looked at was entitled "Principles and Practice of Waste Encapsulation" by a fellow by the name of Jack Colwell from the Department of Energy. He also has a natural consulting firm. He found three major problems with a cap such as this one. First, he said that very, very, very strict quality control is needed and he has never seen that done anywhere in the country to his satisfaction. Secondly, he pointed out problems with erosion; and third, problems of biointrusion, even if you have a biointrusion layer.

The final source that I wanted to cite is entitled "Geotechnology of Waste Management" by two professors at the New Jersey Institute of Technology, Otis and (name ?). They found five potential problems with this kind of cover. First, differential settlement could cause cracking of the cap and cap cracking of the cover exposing people who were playing on it, for example, to toxic materials. Second, gas pressure could cause cracking if the gas venting became dysfunctional, and they found in a significant number of cases no matter what the gas venting system was on paper, it very often break down in practice creating problems. Third, they also found that this system requires regular and often very expensive repairs. Fourth, they found a problem with stabilization particularly if you construct large structures on the cover and some of the proposals for land use that I have heard last week and I've heard since then call for fairly large structures, so there could be stabilization problem. And finally, they found long-term subsidence and settlement problems with this type of cover, and I might say in closing that all of these related specifically to the proposal that you have before us. They were not discussions in general as problems with caps or covers. And so I would like to see again hopefully this project could go forward but I think these kind of issues that relate directly to public health and to protection of the environment need to be satisfactorily addressed by all parties concerned. And again, I would like to say in closing once again compliment to really compliment the Health Department for their excellent work on this project. Thank you.

MR. KERNS - Thank you, John. Is there anyone else in the audience who wishes to speak as a proponent? Someone in favor of the proposed project.

VERNITA WHITFORD, 3105 S. Montana - If the commissioners approve moving the Colorado tailings to this area, I realize that it will be a serious inconvenience to the residents of Williamsburg and the Beef Trail Road residents. However, this inconvenience would have to be faced some day anyway. I have to trust that with all the engineering technology involved here that ARCO and the EPA will do a good job and if there is any problems, it's my understanding that they intend to take care of them in the future. The results would be better than what we have now, however, I do not approve the after usage for ball fields. I certainly don't have anything against the Copper Kings, but I don't wish

to have them playing out from my back yard either. The playground that was proposed here last week would be good. Some walking trails, bicycle trails, horseback riding and picnic would be more suitable to this area. Thank you

MR. KERNS - Thank you very much. Anyone else in the audience wishing to speak as a proponent?

CARL HAFER - First off, I would like to compliment this fine lady who put my name in the paper and she has every right to do that and the only one I think was rather upset was my wife. I certainly appreciate what she has done coming to all these meetings. I would, however, like to clarify a couple of things that she put in the paper. First off, I am not a resident of the area. Secondly, she said possibly I would stand essentially to gain by having that intersection changed because I would trade that land off to the county. She is absolutely right. When I bought it I expected to make some money off of it and I'm going to make some money off of it and the commission ultimately will have to do something with it because it's a bad thing for the city of Butte. But, I appreciate your doing that. I said to my wife -- she said "Who's this lady?" I said, "I don't really know her but she is a very nice person." I said, "But, I already told her tonight that I thought she did a great job." I'm a proponent of this for numerous reasons. Not just for my own self-gain of which I am interested in, but I've tried to trade this piece of ground to the city ten years ago. So, that's long before this was ever a problem. And, I'm also a proponent of it because I expect to work on it. I've never worked or drawn a paycheck from ARCO, but I've drawn a paycheck from every contractor probably that has worked for ARCO. In all the time I've worked for those contractors, I've made a little list for myself the other day and there were eight supervisors for ARCO going back to a fellow named Bob Montgomery, Greg Parker, Jack Marjerison, Sam Stephenson, George Brooks, Bart Richardson, etc. -- never once, as long as I worked for those people did I ever hear one of them to say to do anything which would shortchange the public. So, I don't think we have to worry about the quality of their work and I think it would be great for the community and I think it will be good for the laboring people, such as myself and the other people who have been gainfully employed on these projects for the past ten years. So, I am a proponent. Thanks for your time.

MR. KERNS - Thank you. Is there anyone else in the audience who wishes to speak as a proponent?

BRIAN BREYER - I reside at 2630 S. Dakota. I am a proponent to the plan as it stands all the way around. I do have one suggestion and one question. The suggestion is that you put a line of trees or bushes on the east side of the park facing the residential neighborhood. My reason is that will cut down the sound pollution and the sight pollution. You know, cut down , help the neighborhood out there. My one question is that has been capped once before and fenced. The problem is you go out there now and bikes have been out there, not just the kids, there are adults out there on bikes also. You are going to have to put up a real good security system somehow to keep people from motorcycles from digging into the capped area. I am not talking about the park area, but

the capped area south so they are not going to tear it up and you are going to have the erosion problem and you are going to all kinds of problems. That's my only question as to what kind of security system you're going to have.

DAVID MALLOY, 3154 S. Montana - I'm for the project, but I do have one question. The hill that we are all talking about. Beef Trail and Montana Hansen Road. I've talked to the sheriff department, or the sheriff, last week about it. I asked them how come they can't get anybody out there to slow people down. I was told that there was not enough money to run a patrol car out there or even to get one out there. Now, if you can't do it now, you're not going to be able to do it when they have probably 600-800 cars a day. Now, we have to take care of that corner before somebody else gets killed.

MR. KERNS - Is there anyone else in the audience who wished to speak as a proponent? Mr. Paffhausen.

WAYNE PAFFHAUSEN - I reside at 700 Blacktail Loop in the McGuinness Subdivision. I am here as a proponent for the project, for part of the project. And, the reason for that is I listened and read in the newspaper as everybody else has and been listening to the technological people talking, I think that it can be handled very easily as far as the overburden. I understand the liabilities of the city in terms of the landfill. I understand what this will serve ARCO and their situation, but I do have a problem and I think everything can work from a safety standpoint and everything else and I think it's a WIN-WIN situation for everybody. My concern is the park and I didn't know whether to address that as a part of what I am saying now or wait and come back and talk about that. It's up to you Mr. Chairman.

MR. KERNS - Why don't you just proceed as long as you have taken the microphone.

MR. PAFFHAUSEN - The problem that I have is the fact that I look at the park situation that they are proposing out there and I think that Butte needs a park. I'm not so sure that that's the proper location. I've been told that if doesn't go there, it doesn't go anywhere. and I don't know that I believe that unless somebody beats me in the head with a hammer and tells me why, but I guess that the concern is that we have a golden opportunity here and I'm speaking as a resident with nothing to gain other than helping Butte develop and grow and I've done my share of doing that for this community. My concern is that we have a High Altitude Center. That High Altitude Center may be on its last legs. It may revert back to the city of Butte. It may revert back to Butte East. Who Knows? And, it's going to happen very quickly. I have developed in other communities in this state, in other states and I have found that in every place I go, everybody has their own corner guideline, by-laws, etc. And we are at the present time, we have been waiting patiently for the four-mile road to develop and hopefully part of that will happen this year if, in fact, you know, the right-of-ways and that are achieved. What I am suggesting as an alternative for this, if at all possible, because I think that the community of Butte has something to say about this, is let's do it right. Let's say that it did revert back to the city of Butte -- the High Altitude Center. Why not make it into something like a YMCA?

And the reason I talk about this is several things. Number one, it's accessibility. You've got Continental Drive, you've got the Four-Mile Road and you have the freeway. At no time does any money have to be spent to any great extent to put in traffic controls or any of the things that are being addressed as safety measures or that the citizens are talking about out there. You've got great access here, great access out. Most importantly, the type of complex that can be built there is something that would put Butte on the map. We could go in there in build a stadium, a state-of-the-arts stadium. We go to Scobey. I follow my children for the last 21 or 25 years all over the state of Montana. We go to Miles City. We go to Helena. We see stadiums. Why not have one of our own? Where it's visible and not hidden. Let's put it someplace where people can see. Let's lease it and make the Copper Kings pay for their fair share of it and manage it. Make them maintain it if they are going to use it. The point I'm getting at is at that location, the paved parking lots are there, a building is there. It's a location anybody, even in Walkerville, could get there on the freeway going down. You could be there in five minutes or ten minutes. As far as the State of Montana people driving by there, they could see it. They would be more apt to use it. Butte is developing in that direction. Areas out there are abundant for future development as far as the community is concerned. You could have state-of-the art area there that you would have five fields that people could come in and use. As far as the community is concerned, they are talking about additional baseball fields, they are talking about soccer fields. Why not put it in there where it is totally visible and where people, as far as the community is concerned, is not going to impact other areas and, you can turn it around, but anyway another thing I was thinking about is that I have talked to the people from Butte East. The city at the present time has eleven acres and a building next to High Altitude Center. The High Altitude Center has 20 acres. Butte East has 60 acres, which makes at least 80 to 90 acre parcel ground there that could become a focal point of a beautiful complex that everybody in the community would be very proud of and not to say that the project that is being developed here wouldn't be either. But, by the same token, it just makes sense that we put it in the proper location. I don't disagree that there should be a park there of some type. I just question the type of park. As I listen to this gentleman here who was very well versed stand here and tell us about all of the various histories of the types of things that we are talking about with the overburden and the rest of it, we're going to go out there and we're going to putt in a infrastructure, we're going to put in water and sewer lines and God only knows we see enough of those lines dug up in Butte-Silver Bow. If that was to subside that could cause problems there. You've got parking lots that would separate. We're talking about building stadiums on top of it. You know, why do that? It just doesn't make sense. Why not go in there, cap it, put in a small park, playground areas out there type of thing, that doesn't require a lot of parking. Nothing against the people that live in that area, but you know, it just doesn't seem, you know, a logical place to do it. And, with that in mind, one of things that I did mention is I have conversed with Butte East. Butte East would be very willing to be a partner in planning , a player in this situation to make this work on their end. Thank you.

MR. KERNS - Thank you, Mr. Paffhausen. Those members that have spoken, some of you had questions. Those questions the Council does not have the answer to, before the

And the reason I talk about this is several things. Number one, it's accessibility. You've got Continental Drive, you've got the Four-Mile Road and you have the freeway. At no time does any money have to be spent to any great extent to put in traffic controls or any of the things that are being addressed as policy measures or that the citizens are talking about out there. You've got green space here, green acres out. Most importantly, the type of complex that can be built there is something that would put Butte on the map. We could go in there to build a stadium, a state-of-the-art stadium. We go to Bozeman. I follow my children for the last 22 or 23 years all over the state of Montana. We go to Miles City. We go to Billings. We see stadiums. Why not have one of our own? Where it's visible and not hidden. Let's put it along where people can see. Let's lease it and make the Copper Kings pay for their fair share of it and manage it. Make them maintain it if they are going to use it. The point I'm getting at is at that location, the gravel parking lots are there, a building is there. It's a location anybody, even in Walkerville, could get there on the freeway going down. You could be there in five minutes or ten minutes. As far as the State of Montana people driving by there, they could see it. They would be more apt to use it. Butte is developing in that direction. Areas out there are available for future development as far as the community is concerned. You could have state-of-the-art area there that you would have five fields that people could come in and use. As far as the community is concerned, they are talking about additional baseball fields, they are talking about soccer fields. Why not put it in there where it is totally visible and where people, as far as the community is concerned, is not going to impact other areas and you can turn it around, and another, another thing I was thinking about is that I have talked to the people from [illegible]. The city at the current time has already gone and a building went to High Altitude Center. The High Altitude Center has all kinds. Butte Plaza has 40 acres, which makes at least 40 to 50 acre gravel ground there that could become a focal point for a complete [illegible] complex that everybody in the community would be very proud of and not to say that the project that is being developed now wouldn't be great. But, in the long-term, it just makes sense that we put it in the proper location. I don't suggest that there should be a park there of some type. I don't question the type of park, [illegible] the question, but what, you very well cannot stand here and tell us [illegible] the type of things that we are talking about [illegible] we're going to go out there and we're going to put in [illegible] in grass and gravel and God only knows we [illegible] of those [illegible] in Butte-Silver Bow. If this was [illegible] that could [illegible] parking lots. You've got parking lots that would [illegible]. We're talking about [illegible]. You know, why do that? It just doesn't make sense. Why [illegible] a small park, playground, something along that type of thing, that [illegible] nothing against the people that live in that area, but [illegible] a higher price to do that, with that in mind. One [illegible] I have [illegible] with [illegible] would be very [illegible] in this [illegible] to make the work [illegible]. Thank you.

VICE CHAIRMAN [illegible]: Thank you, Mr. [illegible]. [illegible] spoken [illegible] of you had questions. [illegible] the Council [illegible] before the closure of the public hearing if there are technical people in the audience tonight that can answer those questions they will be answered. If not, there will be a response given to them prior to Council taking any action on the 5th. So, if you ask those questions and no one responds, don't feel that if fell on deaf ears because I could see the look on several of you like "Well, what's going to happen?" So, somehow those questions will get answered before a vote is taken. Is there anyone else in the audience that wishes to speak as a proponent?

ARNIE BARNETT, 1201 W. Copper - I'm not really a proponent or an opponent of the tailings being moved. I am a little concerned about the short time that we've had to consider second ball fields and what have you. Just a year ago we proposed a golf course just on the old dump site, an l8-hole course, and we can prove for a fact that that course would generate revenue in excess of the cost of the operation of approximately $400,000.00 a year. You know, I think you guys gotta look at something that is going to bring in some money instead of cost the taxpayers money. I will be seventy years old next Saturday and taxes are beginning to cut into a limited income. There is quite a few other things that I am against as far as the baseball fields and the park because they don't generate any income but they sure as hell generate a cost to the taxpayers. Whatever is done is fine with me as far as moving the tailings over the Colorado -- that's fine. I think you ought to take a good look at where the costs are and let the people know what they are. We've got ball fields at Stodden Park, we've got em over at Father Sheehan Park, we've got em up at the Cinders, we've got em on the north side, we've got em over on Continental Drive, and they don't create a dollar's worth of income other than possibly if they bring a tournament in. So, I think we ought to take a better look at what we are going to put in there. Thank you.

MR. KERNS - Thank you, Mr. Barnett. Is there anyone else in the audience who wishes to speak as a proponent?

BOB BECKER, 905 15th Street, McGlone Heights - I'd like to speak in favor of something besides ball parks. Something that would generate some revenue rather than cost because the senior citizens need something for them too, to keep them here in town especially those that go south. To get them back into town. And a golf course like this would do it. A lot of them would come back and play golf during the summer months. We get at least 180 days of golfing now with the nine-hole courses. I think if you consider the number of day use of the ballparks we have now there would be approximately 60 days on this ballpark compared to 180 plus days on the golf course. And like Arnie said, the golf course would generate revenue. It would bring people into Butte to play golf. It would accentuate or help the golf course in Anaconda. It would be a very good asset to the city of Butte. Thank you.

MR. KERNS - Anyone else in the audience who wishes to speak as a proponent? Third and final call for proponents. Is there anyone in the audience who wishes to speak as an opponent? Someone against the project in its entirety or portion. Anyone in the audience wishes to speak as an opponent? Third and final call for opponents. Is they anyone in the

audience as a staff member that at this time is capable of answering any of the questions that may have been proposed during this public hearing?

BRAD ARCHIBALD - I can address a couple of the technical questions raised here the last few minutes. John Ray spoke about some of the problems with this type of cap that are common occurrences and documented in the literature. Those are issues which were considered during the preparation of this design. More specifically, he talked about Dr. Daniel's work. The construction quality assurance plan that we have developed that is in front of the DEQ for review right now is based on Dr. Daniel's guidance and his very specific testing procedures that he recommends, very specific, very stringent testing. He talked about defecation and freeze-thaw. Those are very, very critical issues to any cap built in Montana as you may imagine. Our materials that we have selected and tested exceed the permeability specifications that are required for this type of cap and therefore if there is freeze-thaw damage throughout the cover soil and this drainage layer to try to keep things to the right moisture content for this clay, for this material. If that does not occur and we do have some freeze-thaw damage, we can suffer some of that and still meet the specifications and the material will still act as an infiltration barrier layer. We went through a lot of detailed discussion with the state during the design process and they are comfortable with what we are proposing.

A few of the authors he referred to kept talking about the need for frequent repair. Maintenance is a crucial part of this cap as it is to any cap. As it would be if we had ball fields there or not. This is true of the Clark tailings cap and the landfill cap. I am not going to lie to you that there will be maintenance required out there. We build this right, and we getour side slopes are not very steep. We can grow grass on these slopes to minimize erosion, but we've got to make sure that this thing is maintained properly so that it works properly. Differential settlement and stability problems were brought up. Those are more of a concern on the landfill than they would be on the Clark tailings. The Clark tailings have been there for 100 years. They have any settlement that may have occurred in those probably has occurred. Our geotechnical analysis shows that the materials which we were putting on, which by the way will be parking lots or stretches may be involved, those are going to be compacted to densitiescomparable to what you would put underneath a road. 95% of their maximum density was specified right now. They are going to be sound materials to build these types of structures on them. There might be limitations as to buildings that you can build on this and that will have to be looked at during the detailed design of the recreational complex if and when one is constructed on the site.

I believe that addresses most of those issues so I will close with that.

MR. KERNS - Thank you very much.

Butte LAO
Public Hearing
February 26, 1997

Pat

We missed you at the meeting last night. It was fun! Thought I would give you a heads up on some technical concerns from the meeting.

Dr. Ray had comments concerning the type of cap proposed:

desiccation
freeze thaw
construction difficulty
the need for regular and active maintenance
need for strict construction QC
surface erosion
biointrusion
settlement & subsidence
gas pressure (?)
stabilization especially with structures place on surface

Other concerns that I have heard:
effectiveness of a 3" capillary break
capping requirements without LAO tailings

BSB plans to have hearing transcripts available Mar. 6 and will distribute. I assume that you will be coordinating with Ron Bertram and BSB/ARCO on responses.

Kevin

4-3 Silver Bow Co.

Old Butte #20

~~CMA~~.

RECEIVED

FEB 25 1997

MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

COMMUNITY MEETING

G. water Cont., Mear

PROPOSED RECREATIONAL COMPLEX at the Old Butte-Silver Bow Landfill and Clark Tailings Area

Tuesday, February 25, 7:00pm

Community Center, 25 W. Front Street

AGENDA

Land Use Discussion (7:00pm to 8:15pm)

Proposed plan is to build a multi-use recreational facility as part of the project to close the Old Butte Landfill and reclaim the Clark Tailings area, and using the area as a repository for the Colorado Tailings. Comments:

- -- State-of-the-art, safe play area for toddlers
- -- minor league baseball stadium
- -- lawn bowling
- -- other non-athletic components?
- -- pedestrian trail (walking, running and X-SKI)
- -- perimeter protection (fencing)
- -- different location for complex
- -- operation rules for new facility (e.g., limited lighting)
- -- long-term operation and maintenance

Technical Questions (8:15pm to 9:00pm)

- -- Colorado Tailings: Why an alternate repository?

- -- Haul Route
  - - overall safety
  - - traffic concerns
  - - air quality

- -- Clark Tailings area
  - - cap construction
  - - dust control
  - - groundwater protection

- -- Long-term liability and maintenance

Meeting notes:

Bob - Rec Dept. -

① Grove Creek problems. — Margie Reap.

② Cindy Stirgard ÷ save children's park ÷

③ Henrietta Whitford. — does it have to be a park.
Not a ball park —.
— Priority Soils concern. —

④ Carl — backs this project — The guy who works on superfund —
Construction worker -

⑤ ~~?~~ Wayne Pfaffhausen — ? on liability. Park is going in wrong place. High Altitude center. — Purchase ground necessary 500 - 750 K.

⑥ Dick Skates — economic effects of park on tourist industry. Wants Columbia Gardens again.

⑦ Bill Parks — wants to know what maintenance cost will be.

⑧ Margie — ~~who will~~ Why is BSB taking long term responsability.

~~[illegible]~~

~~[illegible]~~. Cynthia.

9. Dust monitoring ÷

10. Clay material — quality control. — Wants Hollow exclusively — use for 1st lifts. ÷

11. Continued monitoring of d.g. wells. —

12. Grove Creek clean up.

13. Underpass for haulage.

Joe Hickey ÷ fuel use by trucks. ÷ scrubbers. — 3" capillary break not sufficient. —

2-25-97

This is written comment I recieved from Carl Haffer a property owner in my District He owns Land near the Beef Trail, Hansen, Mt. St. Intersection.

Bill Melvin

mention all assumptions before the figures

One ~~day~~ evening in summer during softball season, assuming there were four fields in use and a representative number of spectators

field 1. 18 players with vehicles
field 2. 18 players with vehicles
field 3 18 players with vehicles
field 4 18 players with vehicles

1. assume that there were a minimum of five spectators for each team

2. assume that there were four field in use.

4 fields x 18 players = 72 vehicles x 3 games during the evening on each field is 72 vehicles x 4 = 288 vehicles which would use this intersection for the evening

3. assume that the area from Rowe road and hanson road which would include the new Brandon Legg Development all of Little Basin Creek Road and Beef Trail Road would include 224 residences + 20 residences from Brandon legg + 50 residences from Little Basin Creek Road + 10 from Beef trail Road and each residence used the intersection twice which would be and

trip going & coming.

224 from area x 2 = 448
+ 20 from Brandon Way = 40
+ 50 from Little Basin Creek x 2 = 100
10 from Beef trail x 2 = 20
508

If you add the 228 + 508 which is the complex + residential and not figures in the use of the complex during the day the stockyard or the 3 trucking companies in the immediate area and Blankenship construction you have 736 vehicles using this intersection I would think that these figures indicate that Butte Silver Bow should fix this intersection.

Bob Montgomery - Butte Hill
Greg Parker - Butte Hill - Smelter Hill
Sam Stephenson = Warm Spring Pond
Jack Marquise Warm Spring Pond
Bart Richardson - Golf Course
Mike Fletcher - Wetlands Demo
Eric Jacobson - SAO = Colorado Tailin
George Brooks - Butte - Hill - Rocker

Date: 2/24/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

Dear Park Project Planners,

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely,

Bob Chuprinski

Name: BOB CHUPRINSKI

Address: 3134 BURLINGTON
BUTTE, MT 59701

Telephone: 494-5503

PIONEER
TECHNICAL SERVICES, INC.
P.O. Box 3445, Butte, Montana 59702 PHONE (406) 782-5177 FAX (406) 782-5866

Fax Transmittal

TO: JON SESSO, JIM JOHNSTON, DAN DENNEHY, RICK LARSON, PAT CROWLEY, RON BERTRAM

Company:

Fax No.:

FROM: BRAD ARCHIBALD

Date: 2/24/97

Comments: DRAFT RESPONSE TO BOARD OF HEALTH COMMENTS. PLEASE ADVISE ME IF YOU HAVE ANY COMMENTS BY 2/25 @ 4:00 P.M. THE INTENT IS TO FINALIZE AND DELIVER THE LETTER BEFORE THE MEETING WEDNESDAY NIGHT.

Pages (including cover): 7

DRAFT

February 23, 1997

Dan Dennehy, Director
Butte-Silver Bow Health Department
25 East Front Street
Butte, Montana 59701

Dear Mr. Dennehy:

This letter is intended to provide answers to the technical questions raised by the Butte-Silver Bow Board of Health in their February 18 letter to Chief Executive Lynch (Attachment A). These questions are on the proposed plans to place the Lower Area One materials at the Clark Tailings. Furthermore, they address the proposed closure and post-closure plans for the Clark Tailings and the adjacent Old Silver Bow Landfill.

1. The U.S. Environmental Protection Agency (EPA) and ARCO have agreed that an ambient air quality monitoring program is necessary for the proposed activities. This plan is currently being developed by ARCO and will be submitted to EPA for approval before construction begins.

2. Appropriate contact personnel will be included in the air monitoring plan discussed above. The method of notifying the public of the contact person(s) will be included in the plan.

3. The air monitoring plan will include a plan for correcting fugitive dust emissions. This plan will include contingencies for addressing dust problems during non-working hours.

4. The 8.5 tons per year reported in the Final Draft, Butte-Silver Bow Landfill/Clark Tailings Corrective Measures Assessment is based on EPA's conservative default values for non-methanogenic organic compounds (NMOCs) concentrations and landfill gas production rates. Actual concentrations of NMOCs measured at the landfill were much lower (see Appendix E of the CMA report). Based on Butte's arid climate, actual landfill gas production rates are expected to be much lower than the default values in EPA's model. (It is possible to determine actual gas production rates from a landfill, but the testing procedure is very costly and only required by EPA and the Montana Department of Environmental Quality if the facility may require an air quality permit based on default values.) The intent of utilizing the default values was to show that even with the conservative default values, the Old

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BSB Landfill is not expected approach regulatory action levels. (These include the DEQ's 25 tons per year of NMOCs or EPA's 50 tons per year.) Actual gas generation rates are expected to be much lower. Considering gas generation rates are well below regulatory action levels, the separation of the recreational facilities from the gas venting system, and the local climatic conditions, the location of recreational facilities close to the gas venting system is not expected to cause any threats to human health.

It is also important to consider that the landfill will generate gas whether the gas venting system is installed or not. The intent of the venting system is to manage the landfill gas. Without the venting system, gas will travel via the path of least resistance and potentially accumulate is subsurface structures (such as sewers, storm drains, or basements), possibly causing an explosive condition. Venting the gas will mitigate this possibility.

It is possible that certain individuals within the community may be hyper-sensitive to the landfill gas. However, the regulatory action levels were developed based on reasonable assumptions regarding the sensitivity of individuals to NMOCs. Therefore, we must rely on the rule-making process used to set the action levels to protect those that are hyper-sensitive to NMOCs. Again, it is important to note that the landfill gas will be generated regardless of whether the gas venting system is installed or not.

The landfill gas venting system is intended to be installed during 1997. Construction of the proposed recreational facilities are not scheduled to begin until 1998, and use of the facilities is not anticipated until 1999. Therefore, we have the opportunity to monitor ambient air quality, should the Board of Health determine it is necessary, for two years before the recreational facilities are used by the public to ensure that there are no threats to public health. If air quality monitoring shows that there may be problems associated with NMOCs, a contingency plan may be developed and implemented to correct these problems. The contingency plan would most likely include active landfill gas extraction and flaring. do This

5. Based on the conditions at the landfill since substantive closure in 1994, odors associated with landfill gas are not anticipated to be a concern at the site. As discussed above, a contingency plan may be implemented if odors unexpectedly become an issue. ✓

6. EPA is the lead agency for all activities associated with the removal and transportation of LAO materials to the Clark Tailings site. Ron Bertram (44?….) is the designated contact with EPA. MDEQ is the lead agency for placement of the materials at the Clark Tailings; installation of the caps over the Clark Tailings and the landfill; and installation of the gas venting system. Pat Crowley (444-~~5924~~) is the 5294 MDEQ point of contact. In this role, MDEQ is currently reviewing the detailed design for the placement of the Colorado Tailings at the Clark Tailings. During

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placement of the materials at the Clark Tailings and installation of the cap, MDEQ will be the lead agency. However, MDEQ may retain EPA construction oversight representative to provide full-time construction oversight.

Both agencies must approve portions of the overall reclamation plan. EPA must approve the plans to place the Colorado Tailings at the Clark Tailings and the plans for excavation and transportation of the Colorado Tailings. MDEQ must approve the plans to place the Colorado Tailings at the Clark Tailings and the capping/closure of the Clark Tailings and Old Landfill.

7. At this time, BSB does not have direct voice during construction. BSB does have review and approval authority during the design process. The County can voice its concerns through EPA and/or MDEQ. *(Jon- you may want to add to this - any agreements with ARCO regarding this topic?)*

8. No lime or limestone are included in the Clark Tailings cap design. Instead, coarse-grained gravels are specified for use as a capillary brea~~d~~k to prevent the capillary rise of acids and/or metals from the underlying mine wastes. Capillary breaks are proven effective at preventing migration of contaminants to the surface of caps (see Stormont, et al, "Capillary Barriers for Covering Mine Wastes" in *Tailings and Mine Waste 96*).

9. The grading plan for the facility is designed to provide areas with thicker cover soils. Shallow-rooted shrubs and trees may be planted in these areas without damaging the cap. The locations of trees and shrubs will need to be controlled carefully during detailed design of the recreational complex to ensure they are not planted in areas that may cause damage to the underlying cap.

   Some features of the recreational facility will require penetrating the infiltration barrier layer. These features include light poles and goal posts. These penetrations will be sealed with a liner (such as a geosynthetic clay liner) or bentonite chips to preserve the integrity of the infiltration barrier layer.

   Structure foundations may require excavation of the infiltration barrier layer. (Foundation design for any structures for the recreational facility will be completed by a geotechnical engineer during the detailed design of the facility.) If this is necessary, the excavated infiltration barrier layer will be replaced by the structure, so that an infiltration barrier layer will not be necessary. Any water and or sewer lines that are buried beneath the infiltration barrier layer can be covered with a liner to prevent infiltration.

10. Thorough, detailed record (as-built) drawings of the cap and the recreational facility improvements will be prepared after construction is complete. These drawings will be attached to a operation and maintenance plan for the site. This plan will include detailed procedures for any subsurface repair or retrofit activities on the site. Any

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damage to the infiltration barrier layer caused by retrofit activities will be repaired by either reinstalling the low permeability soils or replacing them in the damaged area with a low permeability liner.

The infiltration barrier layer is overlain by a capillary break (three inches of coarse gravel) and a geotextile filter fabric. These materials will be a warning to anyone excavating on the cap that they are approaching the infiltration barrier layer.

11. The purpose of the infiltration barrier layer is to minimize infiltration of water. However, the materials ("clay") used for this layer is not completely impermeable. The term "infiltration barrier layer" is from solid waste regulations; however, the materials required for this layer in the regulations are not impermeable. Rather, they are low permeability soils that will minimize infiltration but not completely prevent it. Therefore, a drainage layer (which also functions as a capillary break) has been specified directly above the infiltration barrier layer. Water that infiltrates through the topsoil and cover soil layers will enter the drainage/capillary break layer. The infiltration barrier layer below this will slow the infiltration of water. The water will then drain off the cap in the drainage layer. The drainage layer daylights to surface water ditches around the perimeter of the site.

12. It will be possible to separate much of the underlying clay from the tailings. This was the case during the construction of test pads of these materials during the July 1996. However, near the tailings/clay interface, it will not be possible to completely separate the clays from the tailings. In this case, these mixed materials will not be used for the infiltration barrier layer. Instead, they will be disposed with the tailings and capped with materials suitable for use as the infiltration barrier layer. EPA and/or MDEQ officials will be present during construction (both the excavation of LAO materials and the installation of the Clark Tailings cap) to ensure that only suitable materials are used for the infiltration barrier layer.

    An EPA standard test (EPA Method 1312, Synthetic Leaching Procedure) has been used to test the proposed capping materials. This test is intended to mimic precipitation leaching through materials. MDEQ has determined that groundwater protection standards (as defined in solid waste regulations at ARM 17.50.710) are appropriate for determining if the proposed materials are acceptable as capping materials.

    If MDEQ rejects the clay from LAO for use as the infiltration barrier layer, there will be adequate materials from the Hollow borrow source for the infiltration barrier layer. A 1996 test pit investigation of this source in showed that there are over 200,000 cubic yards of suitable materials available from the Hollow source.

13. Surface water runoff collected in the pond is not expected to, by itself, provide the water required for irrigation. Most likely, wells will be installed to provide additional water for irrigation. These wells will be located upgradient of the site to ensure that

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no contaminated water is used for irrigation. Also, they will be located such that they will not exacerbate the migration of contaminants from the site. The wells will be located and designed to prevent impacts to any other wells or water rights. There are no plans to use potable water from the Butte-Silver Bow Water Utility Division for irrigation.

14. In the event of a catastrophic failure of the cap or stormwater management structures associated with the Clark Tailings, ARCO will be responsible for repairs unless the cause of the failure is negligence by BSB with respect to maintenance of the cap. The on-site storm water structures (including ponds and ditches) are designed to accommodate the 25-yr, 24-hr storm event, at a minimum, as required by solid waste regulations. Larger runoff events may cause localized erosion damage to these structures, but are not expected to cause any catastrophic failures. This may result in some costs being incurred to repair the damage. This should be a cost to ARCO since it would not be considered a typical maintenance cost. It is imperative that BSB keep all stormwater structures free of debris and other materials that may inhibit stormwater flow.

    No recreational facility structures are in within a designated floodplain. Only the Timber Butte Sedimentation Basin, at the northwest corner of the Clark Tailings, are within a designated floodplain.

15. There are currently no plans to address downstream tailings deposits as part of the Clark Tailings closure activities. These areas may be addressed under other CERCLA activities, most likely as part of the Butte Priority Soils Operable Unit of the Butte Area NPL Site.

16. ARCO and their contractor will utilize perimeter fencing, and possibly contracted security guards, to prevent unauthorized access to the site during construction.

17. In response to this comment, the Council of Commissioners has extended the public comment period to February 28, 1997. In addition, the Council has scheduled two additional public meetings on the subject: one on February 25 and the Butte Community Center and one on February 26 in Council chambers. The Council will vote on the issue on March 5, 1997. If the Board of Health feels that this is still not an adequate amount of time for public review and comment, they should discuss this with the Council and/or the BSB Planning Department.

I hope this provides the information the Board of Health requires to fully endorse the proposed project. If you have any additional questions or require more clarification on any of these items, please give me a call at 782-5177.

Sincerely,

DRAFT

Brad Archibald, P.E.
Senior Engineer

Attachment (BSB Board of Health List of Concerns/Questions)

cc: BSB Council of Commissioners
Jack Lynch
Jim Johnston
Jon Sesso
RON BERTRAM
PAT CROWLEY

⑥

Pat Crowley

CTEC

Citizens' Technical Environmental Committee

February 23, 1997

RECEIVED

FEB 2 6 1997

MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

Butte-Silver Bow Council of Commissioners
Courthouse
Butte, Montana 59701

Re: **Colorado Tailings repository at old county landfill and Clark Tailings site**

Dear Commissioners:

Our organization held a public meeting on this subject February 13, but has not yet taken a position for or against the project. CTEC has supplied you with (primarily engineering) comments from our Technical Advisor, Jim Kuipers. Some have already been addressed and we await answers to others.

Since then, citizens and members have expressed additional concerns listed below that bear primarily on social, economic, legal aspects of the proposed change of specified repository from Opportunity Ponds to the County landfill/Clark Tailings area, capping with ballfields, etc. Rather than attempting to answer any of the questions ourselves, in view of the close of public comment period February 28, we are simply providing them to you as quickly as possible. We understand concerns raised will be addressed by Wednesday. We then hope to poll members before Friday's deadline to provide you and the U.S. EPA with a recommendation from CTEC on this subject.

Residents living near the proposed repository have made the following statements to CTEC.

- One individuals stated he believes it is not in his best interest to attach his name to his concerns because of economic ties to entities that might not appreciate his views. His concerns centered around his understanding that the new repository is also in a floodplain - that two different streams run through the property. While these are at a higher elevation than the Colorado Tailings area, he believes the proposed site has considerable potential for mobilizing contaminants. He is also concerned about increased traffic to ballfields disrupting solitude of the area and decreasing travel safety for his family.

- Another individual said she believes there is a high incidence of lung disease in her neighborhood, which she attributes to air quality problems with the Clark Tailings. The prospect of additional tailings in the area do not please her, no matter what measures are taken to engineer their safety.

- Seven individuals who attended but did not speak at your public hearing last Wednesday expressed the belief that their input would be of no avail, feeling that the decision was made already and public comment would not affect it. One of these said it was her understanding that the meeting was to be devoted to listening to the worries of neighborhood people; that she had made special arrangements at work in order to be there, but had to leave early, disappointed that the number of persons speaking for the ballfields preempted her ability to speak against it. She has been told there will be additional opportunity to comment.

Some new concerns raised by CTEC members include:

- Dollars for perpetual care of the ARCO portion of the project: While addressed in the proposed agreement between ARCO and the County, with the word, "permanent," employed, specific assurances are requested that permanent does not mean just 30 years in this case, as it is sometimes interpreted in the Superfund law. Mr. Pat Crowley has advised that his agency does not get involved in perpetual funding issues as E.P.A. does for Superfund. When Colorado Tailings are removed from Superfund by being reposited at a RCRA site, it appears the County is solely responsible to assure funding.

- At CTEC's public meeting February 13, Chuck Stillwell of ARCO was asked if ARCO had prepared projected injury/death statistics for this truck transport of tailings plan, just as they had in their successful efforts to avert truck haul of Streamside Tailings and Warm Springs Ponds tailings to areas behind the Berkeley Pit, and Colorado Tailings to Opportunity Ponds in the original decision to go by rail. He replied that they had. He was asked to provide those numbers to CTEC; they have not yet been received, and we are providing him a copy of these comments as a reminder. Hopefully, you will agree those numbers are pertinent, especially because they were material in the other instances.

- Tailings stay wet; things sink in them. Old landfill input has not been compacted. How do the proposed caps assure adequate compaction so that the caps don't crack and have to be replaced down line, at least one at taxpayer expense?

- Volatile Organic Compounds (VOCs) emanating from the old B-SB landfill have been of concern to CTEC since we learned of the plume in Water Quality District Development Task Force meetings in August, 1994. Our efforts to obtain a list of the VOCs and a characterization of the plume were apparently too early, and we understand such is now available in technical documents related to this project. Our technical advisor has recommended we concur with this plan's provision for venting of chemicals. We understand they this is a wait-and-see remedy choice, and would like to underscore the need for public knowledge of monitoring efforts, their frequency, and means of evaluation. We also understand that these VOCs are not and will not be encountered by children playing near Grove Creek or other streams in the area, since their nature is to volatilize and disperse harmlessly into the air. The near proximity of the "driving range," where the VOCs would be vented, to the ballfields where children are playing is of concern to us. Measures to assure absolutely no chance for contact with VOCs must be emphasized. Because this is neither a proven nor unproven method of eliminating VOCs , perhaps this means the County should not approve additional (tiny tot) play area proposals f rom this plan. At least some of our members think the VOCs situation would remain a risky one in its proximity to children. Should this plan be implemented, CTEC would like to be included among those receiving copies of VOC air monitoring data on an ongoing basis.

- It is desired that you be made aware of a complicated side issue (that may never occur) so that any potential for loss of restoration activities under the Natural Resources Damages Act may be averted to the extent possible. The purpose of corporations is to make a profit, but this sometimes requires extra vigilance on the part of public representatives. Some long-time observers of Superfund activities in Butte perceive from ARCO alternate enthusiasm for speeding up Butte area cleanup, then for slowing down other cleanup activities, and they postulate this benefits ARCOs bottom line at the expense of public benefit.. With the shortened public comment period so this plan could be implemented this spring, they now question whether or not the sped-up plan/process may have an underlying benefit to ARCO related to the State's Natural Resources Damages lawsuit. Restoration of Silver Bow Creek is one of the major projects identified by State NRD scientists whose public

process and decision documents recognize the desirability of implementation of "restoration" (a natural greenway) in conjunction with "cleanup" work undertaken by MDEQ. The February trial date has just been postponed to March while this cleanup of Colorado Tailings is being expedited. Work on Streamside Tailings cleanup is scheduled to begin quickly after removal of the Colorado Tailings. The public is on record as desiring concurrent creek work from both State agencies, for ripping out cleanup work at Streamside Tailings in order to effect the restoration work would not be efficient. This potential future argument would likely not have to occur if all public bodies work toward the efficient cooperation citizens expect between agencies of the State. Will less restoration dollars be won by the State in the lawsuit if some creek cleanup work is already done by the time the trial is over? Will the restoration phase be preempted? Rightly or wrongly, some perceive undue influence of ARCO on County cleanup efforts, especially as related to County Institutional Controls contracts with ARCO and the artificial greenway plan ARCO financially supports, and for which they will provide additional funding based on cost-savings to be won through County efforts at identifying areas they believe do not have to have tailings removed. (The State restoration plan would remove most all tailings, creating a natural greenway resource and valuable trucker jobs.) Our job is to bring such citizen concerns to your attention. We hope you will treat it as a precaution as you review the overall schedule for cleanup in the County.

Thank you for the opportunity to provide this input. With recent changes in our operations which appear to be more acceptable to the County, CTEC looks forward to a more productive relationship with County Superfund personnel. We hope you will continue to support that, recognizing our grant's purpose is to provide independent review of technical, legal, social and economic aspects of cleanup and to supply feedback to the decision-makers.

Yours very truly,

Mary Kay Craig

Mary Kay Craig, President
CTEC Board of Directors

cc: Mr. Ron Bertram, U.S. EPA
Mr. Kevin Kirley, MDEQ
CTEC Board of Directors

P.S. CTEC moves to the Carpenter's Union Hall, 156 West Granite, on March 1 with a new telephone number forthcoming. Current P.O. Box number will continue.

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely, Jim Goebel
JoAnne Goebel

Name: Jim & JoAnne Goebel

Address: 108 Star Lane

Telephone: 494-4627

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely,

Deanna E. Whitley

Name: Deanna E. Whitley

Address:
1925 Thornton Ave.

Telephone:
723-7713

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely, Rita G. Rodoni

Name: Rita G. Rodoni

Address:
2001 Utah
Butte, Mt

Telephone:

406-723-6873

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely, Margaret K Mogus

Name: Margaret K Mogus

Address: 1828 Gaylord.

Telephone: 782-0734

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely, Patti McGowan

Name: Patti McGowan

Address: 3537 Whiteway

Telephone: 494-8107

Date: 2/22/97

Butte Silver Planning Department
County Courthouse
Granite Street
Butte, MT 59701

I am writing to express my support for the Clark Tailings Park project. I am most interested in seeing the planning and installation of a high quality and safe toddler playground in the park.

Sincerely,

Name: Becky Hochwalt

Address: 7 Cedar Lake Dr.
Butte MT 59701

Telephone: 494-3498

BUTTE-SILVER BOW HEALTH DEPARTMENT
25 WEST FRONT
BUTTE, MONTANA 59701

406-723-3274
FAX 406-723-7245

RECEIVED
FEB 1 1997
MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

February 19, 1997

Chief Executive Jack Lynch and the
Butte-Silver Bow Council of Commissioners
Butte-Silver Bow County Courthouse
155 West Granite Street
Butte, Montana 59701

Subject: Proposed Combined Closure of Old County Landfill and the Clark Tailings with materials from the Coloraodo Tailings and Lower Area One

Ladies and Gentlemen:

The purpose of this letter is to inform you of the actions of the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit [LAO]).

As you know, these technical and non-technical designs, discussions and negotiations have been conducted by multiple parties over the last several years. However, the BOH was first informed of the proposed actions on February 4th, 1997. Accordingly, there is a lot of information to which the BOH has not had access to or the opportunity to review. Consequently, our review of the proposed actions has been expedited to the best of our abilities within the allotted schedules.

On February 18th, 1997, the BOH adopted a motion to endorse the proposed closure actions in concept only. At this time, the BOH can not endorse the proposed actions entirely because several technical questions and issues have yet to be resolved to the satisfaction of the Board. A listing of our concerns / questions is attached to this letter as Attachment A. This listing is only the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period.

The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how those issues may impact the technical integrity of the proposed closure actions.

We had sincerely hoped to provide you with an endorsement of the proposed actions but find that inadvisable due to the lack of information and/or available time to gather that information. We look forward to receiving the information requrested in the attachment to this letter.

Thank you for your time and for providing us this opportunity to submit our comments.

Sincerely,

Thomas M. Malloy
by dd

Phyllis Egan

Thomas M. Malloy
Board Member
Butte-Silver Bow Board of Health

&

Phyllis Egan
Chairperson
Butte-Silver Bow Board of Health

TMM/bf

Enclosure: Attachment A

c.c: Board of Health
Dan Dennehy, Health Department

ATTACHMENT A

The following is a listing of concerns / questions identified by the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit [LAO]). The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how those issues may impact the technical integrity of the proposed closure actions.

This listing is only for the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period. The following concerns are not prioritized and are in no particular order. The concerns / questions are presented in bulletized format for brevity.

1 Regarding air quality, the BOH recommends that an Ambient Air Quality Monitoring Plan be designed and implemented which will be protective of human health and the environment, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The monitoring plan should be designed to address both the perimeter of on-site activities, as well as the nearby communities.

2 Regarding air quality, the BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems / concerns, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction.

3 Regarding air quality, the BOH recommends that the Ambient Air Quality Monitoring Plan include a Dust Response Plan whereby fugitive dust problems will be responded to and corrected in the most timely manner possible, 24 hours per day, 7 days per week, during all phases of excavation, transportaiton and construction. The concern here is that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days.

4 Regarding air quality, the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the old landfill in its peak year of gas production. It is further reported that a permit for this type of source is not required under MDEQ regulations until the source has the potential to emit greater than 25 tons per year of NMOCs.

The BOH questions whether or not the projected 8.5 tons per year (approximately 47 pounds per day or 2 pounds per hour) of NMOCs will endanger the publics' health and/or safety on site and/or downwind in the nearby communities. This point is further exacerbated to the proposed recreational land use of the properties, i.e., having organized recreational activities on site where several hundreds or thousands of people are no site in close proximity to the passive gas vents.

An additional point of consideration when considering the projected 8.5 tons per year of NMOC emissions is that there may be certain individuals within the community who are hyper-sensitive to these gasses. Even if the largest portion of the populace is unaffected by these gasses, there must be due consideration given to anticipate potential impacts to hyper-sensitive individuals in our community.

The BOH recommends that the issue of NMOC gasses and their potential impacts to people, particularly hyper-sensitive individuals, be further researched and that the research be reported back to the BOH.

In any event, the BOH recommends that a contingency plan, including specified response actions for gas venting, be prepared in advance of construction should it later be realized that alternative gas venting measures are necessary.

5 Regarding air quality and the projected 8.5 tons per year of NMOC emissions, will there be any odors associated with these emissions? If so, what will be the impact of these odors on downwind communities and/or on recreational users of the facility?

6 Regarding administrative oversight of the entire project, which is the lead agency? The Colorado Tailings are being moved under a CERCLA action and being deposited onto a landfill closure site which is being jointly reclaimed with Clark Mill Tailings under RCRA standards. What will be the respective roles of the U.S. EPA and the MDEQ? Will both agencies be responsible for oversight of design and implementation? Specifically, who are the designed points of contact for questions or problems regarding any and all phases of the project? Do both agencies have to approve the reclamation plans?

7 As B-SB County is an active participant in these actions and has substantial responsibilities for maintaining the facilities after construction, what will be the role of the County during construction? In the event of a disagreement between field engineers during construction, will there be any dispute settlement procedures whereby the County can voice its concerns?

8 Regarding the caps, the preferred Alternative 8 makes no mention of using lime, limestone or limerock anywhere in the caps. Will any of these or similar alkaline agents be used for any of the proposed caps? If yes, what are the sources and specifications for these materials, e.g., mesh size, CaCO content, etc.?

9 Regarding the caps, how will the designs and construction techniques allow for facilities, structures, vegetation, etc., which will penetrate through the cap? For example, poles for night lights, power poles, water supply lines, sewer lines, trees, shrubs, baseball backstops, football goal posts, etc. must all be anchored to a depth which is greater than the proposed caps.

10 Similarily, how will the facility operators be able to retrofit new or replacement structures / landscaping once construction is complete, without endangering the integrity of the cap and thereby incurring potential additional liabilities? The BOH believes these retrofit considerations must be engineered and designed into the construction plans prior to construction.

11 Regarding the Capillary Break / Drainage Layer (i.e., a 6 inch layer of coarse materials) to be installed above the infiltration barrier (i.e., clay) layer within the cap, what type of material is this and what is the source? Page 9-2 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that "...as a drainage layer, (the coarse materials) will provide a highly permeable medium for which water that has infiltrated through the overlying cover soils to drain by gravity from the cap before infiltrating through the infiltration barrier (clay) layer." Isn't the purpose of the 18 inch infiltration barrier (clay) layer to prevent water infiltration? Similarily, the coarse media is to provide rapid drainage and the water can not pass through the clay layer, where is the water draining to?

12 Regarding the infiltration barrier (i.e., clay) layer within the cap, page 6-13 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that "The low permeability soil for the Clark Tailings cap would most likely be clayey sands from the Hollow borrow pit north of the site." "Alternatively, native silts and clays from the LAO Operable Unit which will be removed as part of that remedial action may be used for the infiltration barrier layer. These materials would be used if they do not leach unacceptable levels of metals and are approved by MDEQ." "Investigations of these sources of materials (combined) show that there is an adequate volume of these materials available to provide the 126,000 cubic yards necessary."

Under extremely wet field excavation conditions, will it be logistically feasible to segregate the Colorado tailings from the silts and clays which lay below? What are the levels to be used in determining acceptable vs. unacceptable levels of leaching metals? When will the MDEQ approve or disapprove of these materials and what criteria will they use? If the MDEQ rejects the use of silts and clays from beneath the Colorado tailings, will there still be enough volume available form the Hollow borrow pit?

13 Regarding irrigation waters for the facilities, page 9-1 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures* Assessment states that the proposed lined pond south of the tailings areas may also be used as a source for irrigation waters. Will this pond be adequate to maintain the necessary vegetative caps during period of low-flow or no-flow? If not, what is the alternative source for irrigation waters? If a well is to be the source, what will be the location and will that source be adequate during dry years? Will any proposed irrigation wells have adverse effects elsewhere in the aquifer, e.g., will someone elses well dry up? Will Butte City water be used?

14 In the event of catastrophic failure of the cap(s) and/or the Grove Creek water diversion structures, who will be responsible for restoring the caps and other corrective features and any associated site cleanup? It is our understanding that the designs for handling storm water runoff are for the 10 year / 24 hour storm event. Is this design perimeter adequate enough to protect the interests of B-SB County, especially if we are responsible for cap maintenance? It is not entirely uncommon to have a major storm event in Butte during the June-July time frame which will flush out major gullies and drainages. Are any of the subject properties or structures located in a designated floodplain?

15 Page 2-6 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* describes the 36-inch diameter corrugated pipe dewatering structure used to dewater the Timber Butte Sedimentation Basin. It states further that this pipe is perforated below the ground surface to allow for dewatering of the basin. Page 5-7 states further that "the Grove Gulch Sedimentation Pond and the Timber Butte Sedimentation Basin remove the majority of suspended solids and associated metals from these water columns. However, during high flow events, there is the possibility that eroded soils (and tails) may not be removed from the water column before discharging to Grove Gulch."

It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this proposed closure action? If not, when will they be addressed?

16 What measures will be taken to prevent unauthroized pedestrian and/or vehicle access (especially motorcycles) to the properties during construction and afterwards? This is critical for both safety and cap failure / success.

17 In the Attachments section of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment*, a copy of a letter is provided dated March 23, 1995 from Mr. Robert J. Robinson, Director of the Montana Department of Health and Environmental Sciences and addressed to Mr. Jack Lynch of Butte-Silver Bow County. The subject of the letter is the proposed combined cleanup of the Clark Tailings and the old County landfill. Mr. Robinson states, "MDHES agrees with the proposed approach provided that the following (four) conditions are met." Condition Number 4 states "B-SB will need to involve the public fully in the evaluation and selection of corrective actions and closure options for the combined site."

The Board of Health appreciates the need to expedite these cleanup activities in the most efficient, timely, cost-effective and thorough manner. Additionally, we appreciate the need to take the maximum advantage of Buttes' short construction season. However, the Board believes that the 16 days provided for public comment (i.e., February 5th to February 21st) may not be adequate for the general public or the BOH to receive, review, digest and comment upon the many technical intricacies associated with a project of this magnitude.

Please be advised that other technical issues regarding public health and safety may yet be raised during the public comment period. The BOH recognizes this and reserves its ability to further amend the Boards' comments / concerns.

Silver Bow Co. C
Old Butte #20
~~CMA~~
G. Water Con. Measures

Public Hearing
February 19, 1997

Proposal to Close Old Landfill and Reclaim Clark Tailings and Move the Colorado Tailings to the Clark Tailings and Construct a Recreational Complex

RECEIVED
FEB 19 1997
MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

Outline of Staff Presentation:

1. Project Purpose
   - -- Background (see Chronology of Events)
   - -- Move Colardo Tailings to Clark Tailings
   - -- Close Old County Landfill
   - -- Reclaim Clark Tailings
   - -- Provide a community recreational facility
   - -- Get things moving on other Superfund projects

2. Major Technical Questions and Answers
   - -- Air quality
     - - dust control
     - - air monitoring
   - -- Suitability of the cap
   - -- Groundwater monitoring

3. Safety Concerns
   - -- Refer to fact sheet/ARCO's testimony

4. Land Uses and Transportation
   - -- Proposed recreational complex
     - - meeting as many needs as possible
     - - feedback from citizens over the last few years
     - - conceptual plan/more comments welcome
   - -- Traffic/Road concerns
     - - intersection
     - - Hansen Road
     - - Beef Trail/Little Basin Creek

5. Agreement with ARCO
   - -- Draft Letter of Intent

LAO/OLD SILVER BOW LANDFILL/CLARK TAILINGS CHRONOLOGY OF EVENTS

- ⇒ **1993: Old Butte-Silver Bow Landfill closure deemed necessary**
- ⇒ **1993 to 1997: Closure activities ongoing at Old Landfill**
- ⇒ **1993: Remedial Activities begin at Lower Area One (LAO) Operable Unit**
- ⇒ **1994: Assessment of Corrective Measures necessary at Old Landfill**
- ⇒ **Spring 1995: Assessment and Closure of Clark Tailings with Old Landfill Approved by Agencies in an effort to speed up reclamation activities at the Clark Tailings, part of the Priority Soils OU.**
- ⇒ **Fall 1995: Agencies, ARCO, and BSB investigate Whiskey Gulch as alternative location for LAO materials to expedite remedial activities at LAO and related Operable Units.**
- ⇒ **Spring 1996: Whiskey Gulch determined to be not viable for LAO wastes. Agencies, ARCO, and BSB begin to investigate Clark Tailings as an alternative site.**
- ⇒ **February 1997: BSB and Agencies solicit public comment on proposed corrective measures at the Old Landfill and Clark Tailings**

LAO/Clark Tailings Project
Public Safety Fact Sheet

Public Road Crossings (Greenwood Ave. and Beeftrail Rd.)

Traffic Control at Intersections

- **2 flagmen** will be stationed at each crossing to control all traffic.
- **Flagmen** will maintain **radio communication** with construction traffic and each other.
- The **public will be asked to stop** their vehicles **every** time at the crossings, except during construction shutdown periods. Construction traffic will have the right-of-way.
- Haul trucks will reach public road crossings approximately once **every 90 seconds**. Public traffic delays are expected to be 30 to 45 seconds on average, with occasional longer delays.
- **Construction traffic will be stopped in case of any emergency.**
- **Slower construction traffic** (e.g., motor graders and water trucks) will be kept **away from road crossings** during **peak** public traffic times.
- **Advanced warning signs, stop signs, and flashing lights** will be placed on both sides of each crossing to alert the public to stop.
- **Safe crossing markers** will be positioned on haul roads at 1000' on both sides of the crossings. Flagmen will signal public traffic through the crossings when no construction traffic is observed inside the safe crossing markers.

Keep Crossings Clean

- Road surfaces at and approaches to the crossings will be cleaned and maintained to facilitate safe travel.

Maintaining Quality Control

- Construction equipment will be **inspected** and maintained on a regular basis.
- Construction equipment **operators will be trained and qualified** to perform assigned duties and will be instructed to use equipment headlights at all times.
- Public road crossing safety procedures may change depending on field observations.

Dust Control

- **Dust** from the haul road and loaded truck boxes **will be controlled**. Dust from truck boxes is not expected to be a problem since the LAO material is damp when transported.
- **Dust suppressant** measures such as chemical applications (e.g., magnesium chloride) and water trucks will be used.
- **Air monitoring** will be performed downwind of the haul road and the Clark Tailings.

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR FEBRUARY 19, 1997

The Regular Meeting of the Council of Commissioners was called to order Wednesday, February 19,1997 in the Council Chambers, Third Floor, Room 312, courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Jack Lynch at 7:30 p.m.

ROLL CALL

12 present and 0 absent

PRAYER

Members of the Council of Commissioners were led in prayer by Commissioner Kerns.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 5, 1997

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting of February 5, 1997.

CITIZEN'S COMMENTS

None

ITEMS NOT ADDRESSED ON AGENDA - SUSPENSION OF THE RULES

None

CHIEF EXECUTIVE'S REPORT

None

SECTION I PUBLIC HEARING

FOR THE PURPOSE OF PRESENTING THE PREFERRED CORRECTIVE MEASURES AND CLOSURE PLANS AT THE OLD SILVER BOW LANDFILL AND THE CLARK TAILINGS; DISCUSSING THE USE OF THE CLARK TAILINGS AREA AS A DISPOSAL SITE FOR MATERIALS FROM THE COLORADO TAILINGS AND THE BUTTE REDUCTION WORKS; AND DISCUSSING THE DEVELOPMENT OF A PROPOSED RECREATIONAL COMPLEX TO BE CONSTRUCTED AS PART OF THE CLOSURE OF THE CLARK TAILINGS AND OLD SILVER BOW LANDFILL. **Proof of publication was noted and placed on file.**

Chief Executive Lynch said that prior to comment from the public there would be a presentation from staff and also from Commissioner Melvin who has a statement he wishes to make before this hearing commences.

COMMISSIONER MELVIN. Before we start the public hearing I would like to make a couple of requests regarding the schedule and comment process. Several folks have expressed a need for more time to review the technical documents and the proposed land use plan for the area. The response I would ask the Council to make a formal request to the EPA and DEQ to extend the comment period for one week. I would ask that written comments be excepted through Friday, February 28. Given the extra week for written comments I would then ask that the Council take an extra week before making its decision on this matter. I would ask that the decision be placed on the agenda of our next Regular Meeting on March 5 rather than a Special Meeting the next week. With an extra week I would like to hold another community meeting about this decision. The Council should sponsor the meeting on Tuesday February 25 at 7 PM at the Community Center on Front Street. I thought our Boulevard Fire Hall meeting was excellent. We had a lot of good questions and answers about the technical issues. At the meeting next week, we should concentrate on the land use of the proposal and give more residents another opportunity to comment on the recreational complex. I would also ask the staff to be prepared to provide further answers to the technical questions that have been raised over the last two weeks. With these steps I would be more comfortable that everybody will have had a good chance to express their views. So in the form of a motion, I would ask that the Council make a formal request to the EP and the DEQ to extend the public comment period for one more week and also ask the Council to sponsor another community meeting on Tuesday February 25 at 7 PM at the Community Center. Chief Executive asked Mr. Melvin if that motion would also include that this be placed on the agenda for final action the 5th to which Mr. Melvin responded in the affirmative. On the question, Commissioner Kerns asked that the Council request the Clerk to see that proper notification of that public meeting on the 25th is posted in the Montana Standard in order to meet our requirements. Commissioner Heard said that he would also like the Council to consider that perhaps we could just continue this public hearing into next Wednesday. That would not require re-publication. It would just simply be word out in the press to continue this hearing through next Wednesday night. It would serve the same purpose without creating another meeting night. There was some misunderstanding as to what Mr. Heard was proposing. Mr. Heard said "My intent was just to continue this public hearing, rather than holding another separate meeting on next Tuesday night and then have another Council meeting next Wednesday night, we just continue this public hearing into our Council Meeting next Wednesday night. It would serve the same purpose. There would be one less meeting for all of us to have to attend." Mr. Lynch thought the community meeting would offer more opportunity for questions and answers. I suggest you do both. Have the hearing the 25th and continue until this hearing the 26th. The motion before the Council now is to continue written comments until Friday February 28, to have additional public comments on the evening of the 25th at the Community Center and the Council Meeting on the 26th and the final action on March 5th. It was seconded by Commissioner Heard and carried by a unanimous verbal vote.

Chief Executive Lynch then called on Jon Sesso of the Planning Department to make the staff presentation.

JON SESSO. We have four things to say. First of all, I wanted to just briefly describe the project purpose, that being starting with the chronology of events as we discussed last time. Many years ago with respect to the county's necessity to close the old landfill out on Beef Trail Road, it was deemed necessary to close it as we went about the business of opening our new landfill and those closure activities began and continue now through today. Separately there was the need under the Superfund process to close the Clark Tailings adjacent and to the East of the old landfill. That is the Superfund activity that is necessary as it relates to reclamation activities in our community under what is called the Butte Priorities Soils Operable Unit. That is not as important just to understand that we are a potentially responsible party for that cleanup and the one thing that we have been doing is offering in-kind services as a member of the PRP group and in this regard one of the things that we suggested was, wouldn't it be more economical and feasible if we combined closure of the Clark Tailings with the closure of the landfill. And we made a request to that effect to the EPA and the DEQ in the fall of 1994 and in the spring we would begin pursuing that combined closure. Subsequent to that the whole business of cleaning up Butte, the Butte Hill, the Colorado tailings, the streamside tailings-- all of those projects seemed to be stuck in the mud Nothing was happening. The suggestion was made would it be possible to take these Colorado Tailings and put them somewhere else, rather than move them to Opportunity. Could we put the Colorado tailings where the Clark tailings are? And that brings us to the technical discussion that went on throughout 1996. The technical people that have been working on this include those from the Environmental Protection Agency. those from the Department of Environmental Quality, staff specialists from Butte-Silver Bow and the Health Department and specialists working in the Public Works Department and the Planning Department. We have all been looking at this together -- the regulatory agencies, the county, and specialists from ARCO and their consultant.

Along about the end of 1996 we came to the conclusion with the regulatory agencies that the haul, the haul route, the placement of the materials on top of the Clark Tailings was all technically feasible. A plan, which was called a corrective measures action report, was put together by our consultant, Pioneer Technical Services, and we submitted that to the agency late in 1996 in December. In January after a thorough review based on six months of discussion, those technical agencies approved the preliminary plan. They said that this can work if the following things were done correctly and were done according to this plan. And that brought us to the need to bring the idea to the public and to get your input. The goals of this particular project are five-fold as stated -- close the Butte-Silver Bow landfill, close and reclaim the Clark tailings, move the Colorado tailings on top of the Clark tailings, build a recreational facility that could serve our community for many years to come and, most importantly, get the ball rolling on a lot of other Superfund projects in this community that have been dormant for too long. It was with those five purposes in mind

that we bring this proposal to the public the month of February and now have a public hearing on it this evening.

There are a number of technical questions that have been raised in the last two weeks since we introduced this concept to the public and I would quickly turn to Brad Archibald, who is the technical guy reading and consulting with and advising Butte-Silver Bow, to run through a few of the major issues as they have been brought to our attention.

BRAD ARCHIBALD. I have worked on this project for about two years now. I am very familiar with the technical issues associated with it. Jon has asked me to address the primary concerns we have heard over the last two weeks. The first thing we have heard a lot about is air quality on two aspects, one regarding dust and metals and we've also heard concerns regarding organic compounds that are to be vented into the atmosphere from the landfill. As part of the construction, dust abatement measures will be employed and, in addition to that, EPA has determined that air monitoring will be required during the construction activities at the Clark tailings. EPA will be available to answer phone calls from the public if anything happens that anybody out there observes dust that they are concerned about.

The second issue that is causing some concern to some people is the volatile organic compounds that will be vented into the atmosphere from the landfill. We certainly know that the landfill is now generating gases. It will continue to generate gases. There is not anything we can do to stop that. What we are proposing to do is vent those compounds in a controlled fashion so those gases do not migrate to places where they may become unsafe. When you cap the landfill those gases may migrate and collect in basements or sewers. That's when they become a hazard. Based on our calculations, and our sampling, and air quality regulations, landfill gases are not going to be a threat to human health. The Board of Health has asked to look into that more closely. We will do that and report to them

The second thing we are concerned about is the integrity or the suitability of the cap itself over the Clark dam. Some people are concerned with placing a park over the closed tailings. That is an appropriate use of that land. There is a graphic of the proposed cap itself that is life size to scale. As you can see we've got 18 inches of clean imported soil on top of everything and then three inches of a gravel break (that gravel break does two things -- it prevents migration of any metals upward through the cover soil so you don't get exposure to capillary action at the surface. That gravel layer also provides if any water infiltrates down through the cover soil, it hits the gravel that is graded so the water runs off to some ditches around the perimeter of the site. Below that you have 18 inches of clay. That is low-permeability soil. Any water that comes down through the cover soil will be stopped by that and then allowed to run off within the gravel. Below that, a total of 39 inches, you have your actual mine waste. With our design and 39 inches of cover there is no threat to individuals being exposed to mine waste. We will be required to monitor the effectiveness of the cap, repair anything, any signs of erosion that is caused by the runoff. We are mandated by regulation to monitor and repair that. Our maximum side

slopes in this design are 4 horizontal to 1 vertical. This is not a real concern. because we can grow grass on these slopes to prevent erosion.

Another issue we've heard concern about is groundwater, in particular monitoring groundwater so that we show that there is no threat to people down gradient or in the vicinity that are using groundwater. Currently, we have detection of metals and some volatile organic compounds in groundwater beneath the site. All the monitoring we have done downgradient of the site has shown the groundwater to be clean. This is true even at the border of the site, except immediately below the sedimentation basin where water ponds infiltrates through the tailings, and then to the groundwater and moves out. As part of our capping plan we are lining that pond to prevent that infiltration to groundwater. At a required thirty-year minimum groundwater monitoring plan, after this program is implemented, and that will prove that groundwater is not contaminated by either the Clark tailings that are there now, nor the landfill or the materials that are being imported to the site. With that we have addressed the major concerns that we have heard.

JON SESSO. Another major concern that has been raised is safety-related, particularly as related to moving these Colorado tailings from the Colorado tailings, over Greenwood Avenue, along the old railroad bed, over Beef Trail Road and onto the site. Many of you have asked questions about the safety of that and in your handout is a one-page factsheet we prepared that deals with the specifics of how this will be done. There was some question about whether it will be long stop and long inconveniences, where these trucks pass over the road. That will not be the case. There will be flagmen there. That is required by the regulatory agencies. There will be good signage and there will be every effort to make sure that the traffic flow is no interrupted for more than a slight convenience of perhaps stopping at a stop sign. We understand that this is an inconvenience. We are not pretending it won't be. It is something we simply have to acknowledge and if it is too much of an inconvenience relative to the benefit that you will save dollars, we will hear from you tonight, but we wanted to make sure that you understood as precisely as possible what would be the inconveniences and what safety measures would be taken to make this a safe haul and a safe project from the get-go through its completion and that includes the dust control measures that Brad mentioned -- not only in the haul of these from one facility to the other but also after they dump on the Clark tailings and before the cap material is brought in on top to make sure that it is a good dust suppressant and that these things don't blow while we are getting this job done. ARCO will be responsible for these measures and will be required to fill these requirements.

The fourth issue on the handout is the land use and transportation issue. Lot of questions about why this park? Why these facilities? And again, I'm not here to tell you that is the proposal that is going to meet all the recreational needs in our community. It simply will not and it is not designed to meet all of our needs. However, it was thought through over the last several months as the one facility with those elements that should meet as many needs as possible that have expressed to the government, to the Planning Department, the Parks Department, to the commissioners who have met for these types of facilities and we

have received a lot of feedback on these types of facilities over the last several years. We tried to incorporate them the best that we can. I guess the last message on the facility, is it is not drawn in ink and it's not a firm proposal that cannot be modified based on the input and the feedback we receive tonight, throughout the rest of the month and even after March 5th . It is not a matter of that these things had to be exactly these. The only thing we have to be working on together is that whatever we do we have to start to rotate it. We have to know where on the site we are going to put these things so that the technology of building this cap be coincide with the actual footprint of the recreational facility. It will be different for the areas not used, particularly on building the soils up so that they can hold parking lots and structures, etc. So that we have some limitations on timing but ARCO has indicated a willingness to work with us and let us know when the window closes. We can talk about it for a few more weeks without upsetting the plan.

The other issue has to do with land use and certainly transportation. There have been three reasons already that have been raised. The intersection has a major problem here. We have consulted about that. We have some designs going on as relate to fixing the intersection here at Hansen and Beef Trail and Montana Street. That has to be fixed. There is just no question that we go forward with this project we have to make it equal and it is our commitment to take care of that intersection.

The second issue has to do with the safety of Hansen Road and the safety and use of Beef Trail Road. These are also, although they are secondary to specific proposal before us here tonight, these are issues that we have to deal with I think as we consider this question, particularly as council members , we have to be prepared to address those concerns in the context of this particular proposal. Last week as it has been stated a business deal with ARCO. There is an agreement that has to be reached between our government and its citizens and ARCO as it relates to their intent to build this facility, their attempt to deal with all these safety concerns, their intent to move the Colorado Tailings and deal with the long-term completion of taking care of this site. Those issues are outlined in a letter that has been passed out to Council. This is a draft letter that would be written from Butte-Silver Bow to ARCO and it would basically outline the parameters of the agreement that would have to be reached. There are seven or eight special issues on this particular letter starting with ARCO's commitment to build the recreational facility, the operation and maintenance responsibilities therein to take care of it, who is responsible for the future remediation and in a nutshell if anything goes wrong here at the Clark Tailings, ARCO will take care of it. Anything goes wrong at the old landfill, Butte-Silver Bow will take care of it. We have to agree to work together on this proposal as it is being presented and as it's ultimately approved by the Council. We have to talk about our long-term maintenance of this area. ARCO is willing to provide the kind of resources to take care of the area of the Clark Tailings. We take care of the Park. We have to talk about permits and approvals and then finally after we have an agreement then we would use binding arbitration to fulfill and get past any disagreements. This is a necessary document. You have to have an agreement between the government and ARCO in order to move this forward. This is a letter of intent because when the attorneys get involved it takes quite a little time to put your intent into legal language that will hold

for the future in a perpetual way, but this is a letter of agreement that has been drafted between the government and ARCO . As officials paid to work on your behalf, we have tried to think of everything that needs to be in our agreement and put it in this letter. There are other things, but these are the main ones and if we have concurrence on these things we believe we can work this partnership and get this job done and satisfy all of the concerns that have a been raised by the public in the last two weeks about who's going to be responsible for what and how long will we be protected, etc. I encourage everybody to review that letter, give feedback to the council and the Chief Executive if there is any element that you think is missing. We're all ears. Our goal is to try to have a signed letter of agreement after the Council makes its decision on March 5th. In closing, I would only state that as an individual who is responsible for trying to coordinate these activities on behalf of the Council, on behalf of the local government and on behalf of the citizens of our community, I have relied considerably on the technical people who have reviewed and prepared and critiqued these technical memorandum an the technical report on exactly how this is going to be done. I cannot tell you from my personal experience. I am not an engineer, but I rely on and I believe that the people who are counseling the government, I believe in the regulatory agencies who are looking at this very carefully and I believe that the plan as it has been proposed by ARCO and Butte-Silver Bow to get this job done is going to be effective and if we follow the plan we can have a good project for our community and move some of these Superfund projects forward. With that we will get on to what we came for and that is to hear from the public.

CHIEF EXECUTIVE LYNCH thanked Mr. Sesso for his presentation and said he would like to note for the record that there are several communications that have been received. One is from the Board of Health and that addresses some technical issues and my understanding is that if the issues the Board of Health has isn't resolved in some of the presentations this evening, that Mr. Archibald as a consultant for Butte-Silver Bow will respond to those questions. They particularly deal with the issues related to particulate emission and air quality and monitoring of emissions in the area. The second letter is from Jim Kuipers, professional engineer and technical advisor to CTEC and if his questions are not answered, we will also follow up with any written response that you might have relative to some of the questions that you have raised. He then opened the public hearing to the audience.

JOHN RAY, 915 W. Galena, representative of CTEC - I want to address my comments since this is part of Butte-Silver Bow public hearing, particularly to representatives of EPA and the state, as well as the city Council of Butte-Silver Bow. To me, this represents a change in a memorandum of understanding and although much of the enforcement of this new proposed cap will come under RECRA in a different state agency, as well as a different part of EPA, I think it's important that even though we are changing and even though EPA is delegating responsibility to another agency or other agencies, that the solutions still have a to meet the goals of Superfund. That the disposal of these toxic materials has to be a cleanup. It has to be protective of human health and the environment. It has to be a permanent solution and it has to be a real cleanup not just moving things around and that cost is not a major factor. These are general goals of the

Superfund program. That's not something new for this. My comments and questions then revolve around two major areas that I think really need to be addressed before people can support this. One is the question of the cap. Is this 39-inch cap going to be protective of human health and the environment and I think we need to do quite a bit of research. Caps have not been used that long by the mining industry. Some of the materials that I have read say in some cases they have failed. And you have to consider with Butte's conditions, with problems of erosion, freezing, and the proposed land use that the latest thing the children will be playing on this (children according to the EPA eat a tablespoon or two of dirt per day when they are playing outside and you have a lot of kids playing in this area, young children)--is this going to be protective of human health and the environment. While the point is that the enforcement for this in terms of public agencies is going to be with the Department of Environmental Quality and one of the problems that the Department of Environmental Quality has had because of the legislature is a lack of forms to enforce and monitor decisions once they are made. And so I am concerned that a state agency that lacks the resources to do this, not the will. They have good people with the State agency. They just don't have the money. They don't have the personnel. It's got to be charged with monitoring this situation not having the resources. Is this really going to be protective of human health and the environment. There is a question of monitoring and there is a question of enforcement. The other area I have a problem with is transportation. It's interesting that when we were having the debate on streamside tailings ARCO produced document after document how trucks hauling toxic materials were very dangerous, represented a greater threat to human health and the environment than the toxic substances themselves. I heard that in many public meetings on streamside. Now ARCO is saying "Hey wait a minute, trains are bad, trucks are great." So you are going to have trucks every 90 seconds in this proposal. For example, the National Traffic Safety Council says that one in five truck trips ends in an accident and that trucks account for a significant proportion of vehicle accidents in this country. Another publication (and I don't have time to go into any of the details in three minutes) is entitled "Atmospheric Dispersion of Hazardous Toxic Materials from Transport Accidents" documents in compelling detail how trucks represent a safety threat. So the question is that the solution is supposed to be protective of human health and the environment and it is also argued that in streamside tailings the trucks represent a greater health risk than the toxic substances that are there. Do we really want to rely on a situation that calls for trucks every 90 seconds?

Briefly I want to comment on process and I want to compliment Mr. Melvin and Mr. Lynch and Mr. Heard that I think it is critical that we have additional comment period on this proposal. One of the problems that I have a and it has been partly alleviated tonight is that it appears there was a rush to judgment. If you read the newspaper articles this is a done deal, the agencies have agreed to it. We are just playing a game here with this public hearing. And that's not in the spirit or letter of the law with Superfund. You know I mean, normally there is a thirty-day comment period. At least now, we have a gotten a little bit closer to that and I think that that's critical. That citizens have a role to play, whether they are engineers or not. I really disagree with Mr. Sesso. I think that even if you don't have a degree in engineering, you know how things affect you. You can

Superfund program. That's not something new for this. My comments and questions then revolve around two major areas that I think really need to be addressed before people can support this. One is the question of the cap. Is this 18-inch cap going to be protective of human health and the environment and I think we need to do quite a bit of research. Caps have not been used that long by the mining industry. Some of the concerns that I have read say in some cases they have failed. And you have to consider with Butte's conditions, with problems of erosion, flooding, and the proposed land use that the tailings being the clubhouse and be playing on this (children according to the EPA eat a tablespoon or two of dirt per day when they are playing outside and you have a lot of kids playing at this area, young children)--is this going to be protective of human health and the environment. While the point is that the enforcement for this in terms of public agencies is going to lie with the Department of Environmental Quality and one of the problems that the Department of Environmental Quality has had because of the legislature is a lack of funds to enforce and monitor facilities once they are made. And so I am concerned that a state agency that lacks the resources to do this, not the will. They have good people with the State agency. They just don't have the money. They don't have the personnel. It's got to be monitored and maintained, this situation not having the resources, is this really going to be protective of human health and the environment. There is a question of monitoring and there is a question of enforcement. The other area I have a problem with is transportation. It's interesting that when we were having the debate on [illegible] tailings ARCO produced witnesses with documents, how trucks hauling mine tailings were very dangerous, represented a greater threat to human health and the environment than the [illegible], particularly [illegible], I heard that at many public meetings on [illegible]. Now ARCO is saying, "Oh, trains are bad, trucks are good." So you are going to have [illegible] in the proposal. For example, the National Traffic Safety Council said that [illegible] truck [illegible] accident and that trucks account for a [illegible] percentage of [illegible] accidents in the country. Another publication that I [illegible] have [illegible] of the [illegible] in these [illegible] "[illegible] [illegible] [illegible] [illegible]" [illegible] to [illegible]. So the question is that the solution is supposed to be protective of human health and the environment and it is also supposed [illegible] a greater health risk than the [illegible] [illegible]. So we really need to [illegible] that [illegible] safe for people [illegible].

[illegible] I'd like to comment on [illegible] and I want to compliment Mr. Melvin and Mr. [illegible] [illegible] I think [illegible] that we have additional comment period on this proposal. One of the questions that I have is that it has been fairly advertised [illegible] there is a need to [illegible]. If you read the newspaper articles they say that [illegible] playing a game here with [illegible]. And that's not [illegible] of the [illegible] supported. You [illegible] there is a thirty-day comment period. [illegible] we have a [illegible] and I think that [illegible]. They [illegible] have a need to [illegible]. I really disagree with [illegible]. I think that [illegible] you know [illegible].

read and you can think and your comments are valuable. And so I would compliment you for expanding the comment period. Thank you.

MR. LYNCH. Thank you John. Just one point and I am going to deviate a little bit from the public comment. I think in light of John's question and since that's a question that is going to be raised by other people here tonight. Ron Bertram is here from the United States Environmental Protection Agency and I would like him to address those questions about protection of health and the human environment and is the cap adequate and sufficient in your estimation and also in terms of monitoring and administration of this capped area. Is the plan as presented adequate. Pat Crowley of the Department of Environmental Quality and Neal Marsh from state Superfund are also in attendance, and I think maybe if you folks address those questions that might in part alleviate some of the concerns, eliminate some of the questions that I am sure others might have.

RON BERTRAM. The action that is proposed here would protect both the environment and public health and safety. The issues in regard to the cap probably would be best deferred to Pat Crowley but the point that John made about this being a RECRA is quite correct. We took (as John pretty well explained) the Clark Tailings and cut that out of the Superfund process and combined that with the closure of the landfill. But you have a to remember that the closure of the landfill is done under federal authorities which is the RECRA program (the Resource Conservation and Recovery Act). All of the state's laws basically come from that federal law. So in effect we are having the federal oversight of the closure. So therefore, from a federal perspective if this is closed consistent with those RECRA requirements, then it's got to be protective of public health, safety and the environment. And we feel like with the delegated program that the state has that that can be accomplished without jeopardizing the environment or public health or safety. In regard to the other issue of dust control, let me say right here that we don't have a dust monitoring plan that we have developed yet. The addendum that is presently out for comment did not include a dust monitoring program. We have already discussed this with ARCO and they intend in the final copy to submit a dust monitoring plan. I notice that the Board of Health brought that up. I agree with at least the first three issues that they have recorded in regard to ambient air quality monitoring. Was there any other particular issues?

MR. LYNCH - No, I think that addresses it, Ron and hopefully if we do have any specific issues, you will be available as we go through this that we can call on you.

PAT CROWLEY, Acting Program Manager - I have been working on this project for virtually three years now and have had numerous discussions with ARCO and Butte-Silver Bow on the closure of the landfill and the closure of the Clark Tailings and the cap that would be suitable. The kid with the spoon has got to dig through better dirt than he's got in his back yard right now in Butte today. Three foot plus to get to the material. OK? That is pretty ambitious for a kid with a spoon. So I think that this is protective of the kid with the spoon. I think it has also got a good vegetation plan. We are going to turn a pile of red blown dirt into something that is green and into something that's got a

management plan. My regulatory authority starts right here and I am interested in these questions particularly myself that relates to this area of Butte. Any questions you send to me about this I will, of course refer to the appropriate EPA and state regulators that deal with the Superfund and you will have your questions responded to. I am more than willing to extend the comment period. I will take comments as long as you think it is appropriate, Mr. Lynch. That's what I am here to do. I am here to help you people out. So, if you have questions on the cap, if you have questions on the groundwater monitoring, drop me a line. Call me direct -- 444-5294 is my phone number. I will take all comments and will be more than glad to answer anyone's questions

MR LYNCH - Just one question. Can people have a relative assurance that the state is going to be actively involved in oversight to look at this as it progresses as the construction moves forward and the concerns that they've got can not only be addressed in the design and in the remediation as it takes place, but as they come up in the course of action?

MR. CROWLEY - Absolutely, Sir. This is a huge project for us. This is a huge project for the citizens of the state of Montana. This is a priority project. I am here on a priority basis. I am assigned that you do this top of your list. OK? This is my top of the list project.

Mr. Lynch then asked if any of the members of the Council had any questions of these technical people prior to opening the microphones to proceed with public comment. There being no response, he called on Sandy Stash for her comments.

SANDY STASH, Facility Manager for ARCO for Montana - I am really not going to say anything that you have not already heard this evening other than in a very formal way I wanted to state ARCO's very, very strong commitment to this project. Many of you will remember that we started the removal of the Colorado Tailings (I almost lost track)but we started studying the problem in the mid 80's and actually started the removal in the very early 1990's. The reason that we are here tonight is as a proponent of this project as we are is because this alternative has decided advantages over the course that we started several years ago in removing the tailings. Notwithstanding Dr. Ray's comment, what we have found is indeed the train haul of the Colorado Tailings that was determined very early on that those materials did need to be removed rather than remain in place has found to be somewhat of a lengthy process. It has been a very good project and it's a project we remain committed to should this alternative not be chosen. But what truck haul does as a decided advantage is get this done a whole lot quicker than it's currently being done. Indeed, instead of taking another two to three years to complete, we feel very strongly we can get the bulk of the removal done in 1997. I see Don Ulrich in the audience. I think he's been kind of nagging us on this project for about 10 yeas and I think for the people that really want to see this area cleaned up this particular process has a very decided advantage. So, we can be done quicker. What is important about that doesn't just remain here in Butte. It makes sense to clean up upstream before you go downstream, so this also has the potential to speed up the work downstream because the

quicker we can get the Colorado Tailings removed, the quicker we can get going on streamside tailings, Silver Bow Creek and the rest of the clean-up. That is the driver in this project. We remain very, very committed to that schedule. I've got several members of my staff here this evening, most importantly, Chuck Stillwell who is the project manager and Eric Jacobson who will be the construction manager on site. They remain very committed to getting this project done in a timely fashion and , most importantly, in a safe fashion. I know there's been numerous concerns raised out of your meeting last week and the phone calls we have received on the safety of truck traffic. We have been very, very active in the basin for the clean-up for five years in a dust zone with just an exemplary safety record. We get a comparable project in Anaconda for a period of about 4 or perhaps 5 months in 1994 with the removal of the arbiter material and we did so without an incident. The reason we were able to do that is we worked very closely with the community in Anaconda and we expect we will do the same here with this body and other county, state and federal officials to be sure that that truck crossing goes in very safe fashion and we do so both safety for our workers as well as the general public.

Additionally, we concur with the extended period of time for the public comment. What people need to understand, and the reason that there is some time frame pressure on this project and why indeed we don't have several months to make some very important decisions is we are committed to start this removal for the 1997 season as early in the Spring as we possibly can and that, of course, basically means that we can be done as quickly as possible with the removal. In that regard, we need a decision, frankly, to know if we are going by truck or by train because once we start one or the other the dye will be cast and that will be how we complete the project. So, if we are going to do something innovative here and utilize the trucks, we very simply need to know that fairly quickly. That is also the case with the recreational facility, although that lags a little bit behind the rest of the project. We need to know fairly quickly exactly what it is that we are going to be building out there, because obviously the shape of it there is a way we put the tailings down on top of the existing landfill site and how we shape those. We need to know whether we are building a ball field or just what that final configuration will be. So we would encourage all the interested members of the public on the recreational facility to work very diligently over the next couple of weeks so that we can have an answer on that fairly quickly. With that, we have as Jon Sesso indicated, worked very hard with his office on negotiating that agreement in principle. For those of you who have a copy of that, this is an agreement that we do not take very lightly because it's a commitment not only to the clean-up which we made several years ago when we accepted the unilateral order from the United States Government, but we view this as a very strong commitment to this commission and to the other elected leadership in this community that we will back what that commitment is. We are very, very proud of the work we've done in the basement. I think anyone who has had a chance to go over to Anaconda and see the Old Works Golf Course knows what working together on these kind of projects can mean in the final analysis and I think that this recreational project will probably actually exceed what we've been able to do with the golf course in Anaconda. We stand very committed. With that we're also available for any questions or comments from anyone in the audience this evening.

CARL HAFER, property owner in that area - I was watching the news tonight and on the news Mike Wallace had interviewed this Chinese leader who has recently died and he said "Good things can come from bad things." They were talking about Chinese history but anyway, I think that this is a wonderful project. My background in the last seven years, I have worked on every project, I believe, that ARCO has done for seven years. Never working directly for them, I have worked for every contractor. Every contractor that has been associated with the Superfund, and I can say that ARCO has done a wonderful job. To go on, I think that this project is good for Butte, but primarily I think it has to be good for the people who live in that immediate area. I think it has please them because they are the ones who have paid this bill for so many years and they are going to live there continually. I think if we're going to talk about this project down there, we have to talk about it in its entirety. I attended a meeting last Wednesday at the Boulevard Fire Hall when they talked about this intersection down there. I also attended the meeting they had at the Council of Commissioners the last Wednesday where it really kind of got shot down -- this intersection. Well, I think if this project is going to be successful, I don't have a problem with ARCO doing a good job because I've experienced that for seven years, but I think the county has to also please the people who live and own property in that area and have paid the bills for all these years and do it as an entire project. They can't put little pieces of it off, such as that intersection, they can't put it off. It all has to be part of one.

CINDY STERGAR, 620 W. Gold - I represent a number of families in Butte who have been thinking about this for years and we see this as an opportunity. We definitely support the Clark Tailings Project in its conceptual nature. We believe that there are important issues that have to be worked out -- traffic, safety, long-term maintenance -- and we believe that those will be worked out. We think there is a good faith effort happening. We are here to voice our support for a safe state-of-the -art toddler's playground as part of the recreation facility. This doesn't minimize our support for baseball, football fields being developed but we support having one piece of the area developed for toddlers and children at a safe state-of-the-art facility. Presently, in Butte we don't have that. We do not have a state-of-the-art safe toddlers play area. Many of our long-standing play areas have equipment and ground cover that has existed for many years that is not really deemed safe at all. This opportunity presented by the Clark Tailings Project we think is perfect. It's perfect timing to provide this kind of recreation facility for Butte families. We're surrounded by two very good examples of this. One in Anaconda, the Washoe Park area put in a safe facility about two years ago. Whitehall has a state-of-the-art safe playground. There's three of them in Montana, one in Hardin, one in Billings and Whitehall is the most recent. We think it would be wise for our community to seriously look at providing such a place for our families to play. It would help us now and it would be here for the future. I am going to submit this as written comment. I have about 15 signatures of families that have supported this.

GEORGE PAUL, 2916 White Boulevard - First of all, I want to thank the Chief Executive and the Council for giving us an opportunity to speak tonight. I stand before

you as a parent and a Butte native and if everything goes right I plan on finishing my run living in this community and raising my family. I come tonight as a member of the board for Mining City Little Guy Football. Mining City Little Guy Football is a program for 4th, 5th and 6th grade boys and girls which last year had about 345 participants. We also had 22 businesses sponsor us and over 100 volunteers including the coaches from Butte High, Butte Central and Montana Tech. I see Coach Green in the back. He's been a strong supporter of our program. One of the things we've learned in Little Guy Football is give the kids an opportunity to play with each other, learn the fundamentals of football, learn friendship, learn sportsmanship. It's a very successful program that does not promote all-star teams. We do not keep records and we don't keep statistics. The main function is for the kids and we're here tonight to say give the kids an opportunity to have a field to go to so they can practice and play their game. And I know that all of the volunteers, the members of the board and all the businesses --we cover the whole county it seems like with participants -- as I look around I see all you commissioners I'm sure some of you have been at some of our games and I know you know that it is a successful program. So with that we strongly urge -- I only have a business degree so I am not as technical as some of these other people but all we can do is talk from our hearts and as parents we want the best and I have faith in Mr. Lynch and you council members to work out all these technical details and give our kids a place to play their game. Thank you.

KEN REAP, 2800 Hansen Road directly below the Clark Tailings - There is a few problems with the plan that I have in my mind. One is the catch basin that is currently in use above it right now. All of the tailings during a heavy rain are wet. The water is coming off of Timber Butte, hitting the Clark Tailings right now, going around that catch basin and down in and then into the creek. As it comes down on where Montana Street and Hansen Road fork, the creek crosses a little triangular park there. That's usually full, perhaps full of tailings. Sometimes the city of Butte will send down a backhoe, clean it out and throw it to the side in order to stop backing up and flooding the ditch. Then when you come across onto my property, I currently have a full strand barbed wire fence under tailings. I just put in a new fence above it. Back in the 1980's we made an agreement with Dale Caster of Butte-Silver Bow and the RC&D and they installed, I guess you'd call them, flood levies on each side of that creek because the tailings were always washing into our pasture. So they installed them. They came up with some good plans too. Vegetation -- we don't see any. They were never kept up. They were supposed to keep the willows cut. It was never kept up. I currently own a big tractor so I do it. But when I'm mowing the dikes, I'm mowing knapweed. So that's another one of my problems with how are you going to control the vegetation and the runoff? Cause it's going to come all the time. When we moved there we came up and got our permits to build a house and they laughed. It was Silver-Bow County, Butte-Silver Bow and they laughed because we're building in a flood zone. Then they put a landfill dump in a flood zone. Now they want to add more tailings to a continuing problem. I would have to say that I am strongly opposed to this or it will have to be really studied hard before I could say go ahead with it. Do I as a citizen have a right to go up and look at each stage and let me see that it's going to work? Can I walk on the ground and walk on the gravel bed? They might tell you they are doing that but who's going to study it? Same way if they come now and sample our wells. But

we've never had any reading to what it is. We've abandoned our drinking well because the high iron content but we are directly below it and our well is 42 feet deep and then the trailer court one in 38. They sampled them both but we've never got copies. So this is the stuff that I would like to keep track of too because if anything happens we're the first people dead. Thank you.

TOM MALLOY, 423 S. Jackson St., Member of the Silver Bow County Board of Health - There are a number of other board members here tonight. It's my understanding that we passed out earlier a communication from the Board of Health to each of the Commissioners so I won't go into each of the details. What I would like to do is tell you the approach that the Board of Health has taken on the subject. It's very important issues and a major project within the community. We were first made aware of it about February 4 at our regular monthly meeting. We believe that the board should take a close look at it and we have. We will continue to monitor public comments and issues that are raised but I would like to let you know that what the Board of Health is focusing on is the technical issues of safety and health and environmental stability of the project. We are not looking at land use issues or issues community issues or things that are not directly related to public health and safety. We have gone through the plans. We met just last evening as a board and we took a vote and the consensus was to endorse the plan in concept only at this time. We have a number of technical concerns that have either been addressed tonight or I believe will be addressed shortly in the future. So, as a concept the Board of Health feels it 's a great opportunity for Butte-Silver Bow. We have concerns on groundwater, Dust emissions and some other concerns which are in your letter and as other issues are raised we will bring those up too as a Board of Health. We would like to endorse this project in its entirety but at this time our concerns are addressed on a technical response basis. We will withhold the whole- hearted endorsement, but we do endorse the project in its concept and we will continue to serve the council and the members of the community as the Board of Health. Thank you.

MIKE PANISKO, 120 Cottonwood - I'm here to represent the latter part of the youth of a couple of previous speakers -- the 13-year olds to the 18-year olds. A little bit of background -- I've been associated with youth baseball for about 15 years. I've coached and 1995 and 1996 I was president of the Babe Ruth League. In approximately 1994 and 1995 we had about 160 a year and that kind of fluctuates depending on other interests that the kids may have, but also there's about 700 in our Little League and they are very nice facilities and then we come to the Babe Ruth Program and we try our hardest (we have a pretty nice facility at Mile High area, we have a neighborhood one the Cinders and they we have since moved a couple behind the Civic Center) and it's very tough run a facility. It's a low budget and as a consequence it's that age when kids are trying to maybe try other things and whatever, but it's really like a second cousin kind of situation. I want you to seriously consider the youth in that period because these are boys and girls that are playing softball but if they are not on that field doing something, they are going to be perhaps doing something that is not in the best interest of the community. It's not a threat. It's just a fact of life. The community has been very supportive with a few volunteers and parents of the kids and the businesses were always out begging. A facility

like this would put Butte on the map in more ways than one. I think Helena did something not quite like this but went from two fields to four fields and they have quite a Little League complex right next to the Babe Ruth. They went from about 7 teams to about 15 teams. And they usually have a team in the state championship or state tournament. Our players are just as good. They just don't have the opportunity. It's the facilities and this would really I think kick it in place. I recognize the necessity of the concerned citizens who live there and the importance of safety and health. I would like to point out that was born and raised in Butte and I played in the Northwest Little League Field and at the Cinders and behind Tech and I think the northwest and almost half of the fields at that time were tailings. That's all we played on. So, maybe it wasn't the same kind of tailings as what we are trying to move here but I want, with all due respect to the hazardous issue, but we are talking Butte and we are talking mining community and 'm here to remind you that you owe an obligation to the youth of this city and I'd like you to be thinking about that. Thank you very much.

STEVE RODRIGUES - I am a Butte native. I've been gone for twenty years and I'm bringing my corporation to the city of Butte. It's called the Palace Club and Enterprises, Inc. I guess my appreciation for the concept is remarkable. This is a unique project in many respects. It's very admirable to even think of the concept on a public-private relationship. I've worked for the largest design and construction firms in the world and I ended up working five years for Dupont. I started a company with Dupont on the ground floor called Dupont Environmental Remediation Services. I was their civil expert. I do see some technical problems with your design. A landfill has overburden and you're putting more overburden on the structure. The density of the construction techniques and the applicable methods for future use which is going to hopefully last for 50 to 100 years or more and beyond for generations is very important to look at. In the mining industry in Butte we know what mines do to protect. RECRA has some very stringent guidelines and for some of the members here in this community to say we support you -- you that work with the environmental agencies because there is a great deal of restrictions and guidelines to follow. It's difficult to look at a total scope project and put together the construction procedures, specifications and everything that follows. So, the safety of the citizens and the people I am not worried about as a professional. The technical aspects can be ironed out. A primary and secondary liner or protection system and other structural applications -- there's a lot of things that we do and it costs a lot of money. My perspective is this is not related to cost. It's a win, win. Everybody in the city of Butte wins. I've traveled the country. I'm a Butte native and I've played little league at McQueen's little league fields when I was a kid. It's gone. If somebody here in this position had enough foresight to see fifty years from now that the McQueen fields were gone or going to be gone or the Columbia Gardens is gone or going to be gone, we would decide as a community where to put something in the right place. A ? liner is permeable and structurally unsound, but it costs a lot of money to put in. If the community has a responsibility to build this cap separate and independently from ARCO, then you have an expense and a duration and everything that follows with construction

do to Butte. That's why I'm back here, and I'm going to fight to make sure that my project goes because I love it here. My roots are here. My family is here. And when you travel and leave Butte you always think of ways that are going to make you better. Not just you as a person. So I think it's time for people at the Council, to stop thinking of themselves and think of the community as a whole and the appreciation of that whole will work itself out. Thank you.

TOM WHALEY, part-owner of the Butte Copper Kings Baseball Club - I notice these three minute signs all over the place and I've gotta tell you Man, I'm Irish. We have trouble saying Hello in ten minutes so I'll give it my best shot. I'm here not so much as part-owner of the Butte Copper Kings Baseball Club. I'm here as a citizen of Butte. I myself am now a resident of Butte and so I would be perfectly understanding if at any time you tell me to buzz off. I'll do it. You folks have some things to address here and I fully admit that I am not as well versed with the problems that you are facing in coming to these solutions to your problems as you all are. I'm here to let you know one thing. Mike Beck, who is the chairman of the Copper Kings, couldn't make it so he did ask me to come today to speak with you. My comments in the context of this discussion are as follows. We are very happy. We are grateful to the way that the folks of Butte have embraced their ball club the past season. Last season we enjoyed the best season in franchise history, went to the playoffs. We have a new agreement with the Anaheim Angels. Our sales are doubled at this point from where they were a year ago which were double where they were from the year before. Got a new logo, some new colors coming out. If we can just keep Bill Murray off the trolleys on his way out to the Old Works Golf Course, we'll be OK. We're happy and I want you to know that whatever this community decides to do with this site, I want you to know that we are 110% behind that whether it includes us directly (and it certainly will include us indirectly) we're sure to pledge our support. The things that are important in a community are, I heard from folks that want toddler playgrounds; we heard from folks that want little league fields, we heard from folks that want Mighty Mite football programs. Those are the things that count. The concern for your kids are the things that count -- your schools, your libraries, your hospitals, churches -- those are all things that count. Trails, ballparks, wooden areas. Those are the bells and whistles that we add to the kids in our community. That's what this is and so I think the first question obviously are the health, safety and enjoyment are primary concerns. I do have some problem that if there are folks up in that area that have a problem with this project going through as a citizen of Butte, I have a problem, the Copper Kings have a problem with telling those citizens "Now forget it. We're just going to do it anyway." They are the ones that are affected directly and I think as a citizen of this community we want to pay particular attention to those concerns.

There was a headline in the paper a week ago that normally in my business you don't take exception with the local scribes. They are never wrong, but there was a headline a couple weeks ago and I'll show it to you. It says "Park Idea Peeves Kings" and that's wrong and I hope I don't offend any of my friends over at the Montana Standard,

but how in the heck could Butte Copper Kings be peeved or offended by a project that is going to put kids playing baseball? That 's going to get kids playing football? More baseball is good baseball. More baseball is good for the Butte Copper Kings. The more baseball fans we create in Butte, the better off we're going to be whether we're playing down here or up on the hill. So, we're not peeved in any way, shape or form with the plan. I guess what I would say is that we just want a voice. A voice for the citizens of Butte to hear we have a plan that we would like to put in place. And one I think that could be put in place quickly. I know Mr. Turneau and Dave Meyer have passed out some drawings that we had done. Our plan is for a multi-use facility that does include the Copper Kings. It would be a facility that could be used for football. It could be used for soccer. It could be used to draw tournaments from all over the state. Ted mentioned to me today there's a big archery, somebody wants to do an archery tournament of some king. These are all things it can be put to use for and I think there is still ample room up there. I took an hour today and drove around it with Ted. I think there is ample room up there to put little league fields in and to put football fields in and still have a stadium for the Copper Kings if you want. I have no illusions either. If the citizens of Butte, after we put out plan out there, tell us to go jump in the Berkeley Pit, I 'm going to be the first one with my swimming trunks on. We don't want to offend anybody. We simply want to put an idea out there for discussion. If the citizens of Butte think our plan has some merit, we want to take it to the government officials, we want to take it to ARCO and say "What do you think?" If they collectively tell us to go jump in the Berkeley Pit, again you are going to have to race me to the swimming trunks line because we don't want to go where we are not really wanted. I have no illusions other. There were some points raised -- as a private business person I find nothing more offensive or nothing more infamous than somebody telling me how to spend my money and in a hundred years the Butte Copper Kings ask ARCO or the City of Butte for a handout. We are perfectly capable of handling our business on our own and we don't want a handout. What we want to do is just put an idea out there for a public facility. I bristle a little bit at the notion that it was put out there somewhere that a stadium for the Copper Kings is subsidizing private business. If we owned the ballpark I would buy into that. We don't plan to own a ballpark. We don't want to own a ballpark. We simply want to put an idea out there for the city to own a ballpark and us to pay rent. We believe in that. As far as economic impact, I don't think it's the place of a baseball club owner to say what it's economic impact is on a community. I think that's selfish. What I can do is put some numbers out there. I think that's for you all to decide and I think there are some people who are qualified in town that study things like this and are able to say the Copper Kings have an impact of X in this community and then you have to make your decision as to whether or not putting in a ballpark for them, a new facility for them, is something that is advisable. I do say this though. We are confident, just in closing, that we can bring something to the table here. Something that I don't know that anybody else can bring to the table and that is a significant stream of increment would go toward offsetting this thing, to take it into the next century, make it a prosperous venue that is going to draw folks from all over the state of Montana and southwest Montana. So, I thank you all for your time tonight. If anybody has any questions of us, again, we just have an idea and a plan. If you have [illegible] could Butte Copper Kings be moved or affected by a project that is going to get kids playing baseball? That's going to get kids playing baseball? More baseball is great baseball. More baseball is good for the Butte Copper Kings. The more baseball fans we create in Butte, the better off we're going to be whether we're bringing dollars here or up on the hill. So, we're not moved in any way, shape or form with the plan. I guess what I would say is that we just need a voice. A voice for the citizens of Butte to say we have a plan that we would like to put in place. And now I think that needs to put in place quickly. I know Mr. Tarrant and Dave Meyer have looked [illegible] water drainage that we had out there. Our plan is for a multi-use facility that would include the Copper Kings. It would be a facility that could be used for football. It could be used for soccer. It would be used by track tournaments from all over the state. The bleachers [illegible] there's a big archery, everybody wants to do an archery tournament of some kind. There are so many things [illegible] to use for and I think there is still ample room up there. I took an hour today and drove around it with Ted. I think there is ample room up there to put both baseball fields in and to put football fields in and still have a stadium for the Copper Kings if you want. I have no doubt [illegible]. If the citizens of Butte, after we put [illegible] plan out there, want to go jump in the Berkeley Pit, I'm going to be the first one with my swimming trunks on. We don't want to offend anybody. We simply want to get it [illegible] out there for discussion. If the citizens of Butte think our plan has some merit, we want to take it to the government officials. We want to take it to ARCO and say "What do you think?" If they collectively tell us to go jump in the Berkeley Pit again you are going to have to [illegible] in the swimming trunks line because we don't want to go where we are not really wanted. I have no doubt [illegible]. There were some points raised — as a private business person I feel [illegible] more efficient [illegible] than government entity [illegible] the money and it's [illegible] the Butte Copper Kings and ARCO or the City of Butte [illegible] for a handout. We are perfectly capable of handling our business [illegible]. What we want to do is just put an idea out there for a public facility. [illegible] that it was put out there [illegible] for the Copper Kings is [illegible] private business. If [illegible] We don't want to own it [illegible]. We don't want to own a ballpark. We simply want to put an idea out there for the city to [illegible]. As far as economic impact, I don't think it's the place of [illegible] to say what a economic impact is on a community. I think that's [illegible]. I think there [illegible] and I think there are many people who are qualified to [illegible] the Copper Kings have an impact of [illegible] in the community and that you have to make your decisions [illegible] or not putting in a ballpark [illegible] a new facility [illegible] is something that is workable. [illegible] though. We are [illegible] that we can bring something to the table here. Something that I don't know that anybody else can bring to the table and that is a significant [illegible] would go toward [illegible] the state [illegible] a prospective venue that is going to draw [illegible] from all over the state of Montana and southwest Montana. So, I thank you all for your time tonight. If anybody has any questions [illegible] again, we just have an idea and a plan. If you have complaints, ideas, whatever, please feel free to contact Ted or give me a call. Again, thanks and we'll see you at the home opener on June 18th when we kill Idaho Falls.

BOB GREEN, 900 W. Gold - I am here strictly from my perspective as a parent and as a citizen of Butte. I would endorse this project. I think that it's an idea that has a lot of merit. I believe that you as a Council have a tough job, but I think you have a great opportunity. You have an opportunity to get something going with the cooperation of ARCO. I do think we have some details that we have to overcome. I think that the people who have spoken on behalf of the project from the perspective of the youth of Butte, from the perspective of citizen use, from those perspectives have made some very good points. I too do not have a wealth of technical knowledge in this area, but I charge you as a council to undertake this project and I think it's great that you have extended the discussion period to solicit more input on this, but I think that as a council and as a community this is a tremendous opportunity and a tremendous chance to work with ARCO to achieve funding for this project. I think there some pitfalls, some things we have to overcome. We certainly don't want to be like the guy in the Titantic who didn't issue all the lifeboats because he was waiting for things to get bad. We want to make sure that we have a chance to make use of this opportunity as a council and as a community. As an individual I would endorse it. Thank you.

JIM HANLEY, 2012 Grand - I have been associated with the American Legion baseball program in Butte for quite some time. I appreciate the effort that you people are giving and trying to establish a good ball field for the city of Butte, especially for American Legion baseball. The city of Butte is to my knowledge the only city in the state of Montana that does not have an independent American Legion baseball field. We've been playing on Montana Tech's field and it's been a blessing to us because if that field wasn't there and if we didn't have the cooperation of Montana Tech over the years, we wouldn't have had the American Legion baseball program in this town. This program has sent many kids to college on scholarships and continues to do so. My main problem is that we are able to have some kind of input if we do get this passed by you people to initiate some of our thoughts on building a facility. We have had two boondoggles here in the past with baseball endeavors for Legion. One was at Duggan Field and that lasted probably five or six years. No, not even that. Then they gave the property to the school district. Something happened to the field, the fence or something, maintenance wasn't proper. It was not an excellent idea anyway. There was no seating capacity. The other one was when they built Stodden Park. They built a similar facility to what you see here and the field was too small. It's not a regulation field. So we played two years in that field at Stodden Park and we had to stop because the balls were flying all over the place. They were not legal fields. They were way too small. The State gave us a special OK to play our games there. And, I would recommend strongly that if you are going to have a baseball field in this town that you would consider having a class field, not a third-class or fourth-class field and I would say that you should consider looking at the fields that they just built in Bozeman and Missoula. And one down in Belgrade which is probably a town that's not one-fourth as big as Butte. And check out what they've done in those communities and see the little projects they've had turn into great facilities for those kids.

Now none of those places had baseball fields prior to this and they are all assets to the cities. And, I think we should look at it strong if you're going to put all this money into making these facilities, I think we should do it in a class act and not just jam them together as this is and I understand that that's not the final thing, but keep these things in mind when you're going to do it and build a nice grandstand around the baseball field. Don't just have it there and two sets of bleachers on the side because this field can be used for all Babe Ruth kids, all the All Star teams. I don't know about the Copper Kings. If it could be built big enough for them, but these things have to be considered and I am talking here not for the Copper Kings or anybody else. I am talking for the youth of Butte and I think that our kids deserve it and I am sometimes embarrassed that we are the only town in the State of Montana who does not have a facility that I could consider first-class or even third-class. Thank you.

GINA KONEN, 3301 Mantle - I represent Mining City Little Guys Football. I'm on the Board of Directors. My opinion is exactly the same as George Paul had mentioned. We are strong support of it. The fact that Mining City Little Guys Football is mentioned in here. The fact that we can have potentially can have two fields is wonderful. Right now we're basically a bunch of vagabonds. We call Jimmy. We call Bob Rawlings and we say OK where can we play this year? It would be really nice for us to have our own field. I would also like to express my opinion. There is a gentleman who was stated in the paper that was concerned about the traffic that this will bring into his neighborhood. I live dead straight away center field from Longfellow's baseball field major boys park . There is no parking at that field -- none. People park on our street. People park in front of my house and I have to generally say people are wonderful . They are very polite. They even ask if they can park in front of our house. I don't think that this is going to be a problem and I don't think it's an issue. I think what ARCO is trying to do is wonderful and I hope the Council of Commissioners support this and elect to go with this project. Thank you.,

VENITA WHITFORD, a close neighbor of this proposed project. I think we are outnumbered by the ball playing people. I am not against progress but I agree with Mr. Reap that we have a drainage problem there and we have a gully between us and this ballpark. I would just ask that you don't put the cart before the horse and take care of some of these other problems. Make sure that they are taken care of before this park goes in.

CYNTHIA KROMM, I am a Little Basin Creek resident. In general I support the concept of this proposal for passing the Clark Tailings and old landfill area. It would be an improvement over the present situation. However, two areas of concern remain. The clay used for capping material must be of sufficient specs and consistent purity so hold up over time. It should also be free of additional contaminants which is a concern with the source from the Colorado Tailings that has been proposed. Percolation of snow melt, freeze, thaw, frost and precipitation run-off will test this cap to its maximum in our climate. It must be of good design to hold up over the years and comments made earlier indicate the design may not be adequate. I would appreciate it if we could this out a little more. The second area of concern regarding the monitoring of downward and lateral

percolation through the tailings that exist there now as well as the additional tailings to be brought in. A water monitoring program which has been described so far does not appear to address what is occurring at the deeper level groundwater aquifer below the existing tailings deposit and landfill area. We need a baseline contamination evaluation of the area at depth to compare to what may be found in the acquirer after deposition of the tailings. The water monitoring that has been described so far is all at very shallow level. Twenty, thirty, forty feet. This is not sufficient to tell what is happening below that deposit now and in the future. And the residents adjacent to that area have existing problems which have not been addressed. This needs to be addressed by Mr. Crowley. Thank you.

EVAN BARRETT, Executive Director of the Butte Local Development Corporation but I am not here testifying on behalf that organization today. I am actually coming here as both a citizen and as a member of what we call the Butte Economic Development Coordinating Council. I want to explain that the Coordinating Council is an informal group that we've had going here for six or seven, maybe ten years in fact. We have a monthly meeting for everyone involved in economic development. It's really a roundtable. Not a formal group. We don't take formal positions. We don't sit there and vote. We had a meeting last week and had a very active and live discussion about the issues that are in front of us today and there was a strong consensus and a request of the council that I express some of the consensus feelings of the coordinating council to your as a body. So, I am speaking kind in behalf of that informal group.

Really, we are here in the group as a proponent of the project . Let's make no mistake about that. I think everybody from that group wants to complement Butte-Silver Bow and ARCO for the efforts they put forth on this.. The EPA and DEQ for what they've done developing this concept to create a kind of a major recreational facility for Butte-Silver Bow. This is good for economic development. It's a quality of life issue. Recreational facilities and those kind of amenities are important when you hold out your community as a quality community. This is a wonderful town and we can make it better with great recreational facilities. It will make us more amenable to growth as well. I think any of us would like to see twenty, thirty, forty more greened acres around this community. So, it's good that way. We're not technical people in the sense of the health issues. I think we are relying upon the folks who are the technical people with DEQ, with EPA to tell us if this is safe or not. The message we're hearing is that it is safe. There have been some specific issues brought up here that obviously everyone would want to double check on and make sure that the decisions are right, but I think that our group was satisfied with the health issues, pleased with the economic development opportunity to quality of life issues. The issue that concerned them and I guess you get these questions. You get up and say "We're a proponent, BUT" and there is a small but in here which is the issue of adequate public input. You've substantially addressed that with the motions earlier tonight. This is an important project for the community and it's very important in a project like this to have broad public involvement regarding the ultimate land uses that are going to be put on that facility. Community support for these kind of facilities comes directly out of community involvement. This meeting here tonight and the other meetings are healthy because they are showing strong community involvement. We need to have

as much or more of that as we can. Many of the folks involved with the coordinating council felt that more time was needed, even more time than is outlined in the initial in the initial motion made tonight. More time is needed to insure that the final land uses are the best uses for the community. The uses outlined in the current proposal may well be the best use. I don't know. I don't think any of us knows. There may be some other ideas out there that could take root and emerge up from a broader public process. The coordinating council wanted to urge the council to look at the following actions. They thought it was important to begin the process of moving the dirt. What Sandy said here and what was presented by Jon is correct. There is a sequency issue here and we do not want to see Colorado Tailings locked into a Opportunity Ponds thing which would take care of that opportunity but would remove an opportunity for us. So, it's important that the process begin which means you're going to have to make arrangements with ARCO and commit the community to this plan and this location. The group wanted to see that there would be more time provided, even beyond March 5th, probably, for increased public input and the Coordinating Council wanted to see that the chairman and the council were actively pursuing broader public input to some folks who have an established record of pulling in significant public involvement and the group specifically mentioned the Project Green process that took place and whether or not the county couldn't delegate some public input responsibilities to a group like that. That group has not been asked, by the way, by the coordinating council but I just threw that out because that is what the coordinating council discussed. In conclusion, and let me say, the bottom line of this we think you ought to do the deal. Do an agreement that allows this thing to move forward, but allow more time for decisions about the final land uses that are going to be on this facility. This is good for Butte overall. It's good for economic development. It's good for quality of life issues here. It will speed up the Superfund process downstream. So, let's do it, but let's do it right.

JIM KUIPERS, Technical Advisor for CTEC - As such, I look at technical documents as well as listen to public comment and try to take into account CTEC's responsibility towards the environment as they see it, in making comment on these things. I am not really here to be pro or con for this particular project so much as to raise the issues that they have come up with from the technical view and public comment side. I want to take a moment and recognize and compliment the process I see occurring here that the Council of Commissioners, the Land Planning people, the EPA and ARCO, as well as all the other parties are involving themselves in and that is making the public process a constructive period. It's something that means something rather than just an area of formality as too often is seen. I think what is going to result from the efforts that everybody is putting in here is a very good project that should meet most everybody's concerns.

I want to touch briefly on those concerns that I've raised. I've talked about the local residents concerns in the memorandum I've sent. I take those concerns, particularly in terms of health and safety, are being are being adequately addressed and some of the things we've seen tonight go a long ways toward meeting that. I look forward to the community meeting next week so we can hear some of the additional local concerns and I think it will further alleviate some of their fears about this project. I'm also glad to see

that we now have the documentation complete in terms of the agreement between Butte-Silver Bow and ARCO. That has been a very critical facet of this project that we need to look at. The third issue is concept of completion. And that's something I think we need to look at further here in terms of who is going to insure that the actual work done on the ground is done properly on this project. Mr. Crowley with the State has said it is his responsibility to do so. But something you need for Superfund projects is that hire a Bureau of Reclamation, a whole separate agency, to oversee the work that's done to avoid a conflict of interest. The State of Montana is suggesting in many cases that they will be supervising their own work. I'm not entirely comfortable with that and I think we should look at that and see what kind of mechanism they are going to put in place to insure that concern is alleviated. The fourth concern I have is why change the plan? I would like to hear a little bit more the railroad's concern with why they can't go ahead and speed up everything. I think there is a reasonable answer there, but we haven't really heard the answer to that concern. The fifth issue is recreation and land use and I agree that also that will be a very useful thing to discuss in the local community meeting next week. I think a lot of people have a lot of different views and it's going to be worthwhile to take those into account and come up with a final plan that does the best that it can for the most people. The sixth subject is public process and as I said I agree with the extension that has been mad. In the future I would encourage just a standard thirty day public comment period as the law dictates in most cases. I am encouraged though that we are taking into account the concerns that have been raised, the amount of public comment that has been issued and that we are going to go ahead and have a good public process. Ii appreciate your consideration of the things that I have brought up and thank you very much.

MR. LYNCH - Let me add something real quickly. I find it very beneficial that you took the time to submit the written comments and that you broke it down and you detailed the areas that you wanted us to address. I think that, at least from my perspective, this is a new format for CTEC in terms of giving us an opportunity to know your concerns and be prepared to adequately address them. I am very much encouraged by this and I hope that this would continue. I think this is a good way to have a very active interchange between the Citizens Technical Advisory Committee and the government and the regulatory agencies. So, this is a good way to do it and I encourage you to keep doing it this way.

JIM KEANE, 3121 Wall - I would like to talk for a moment about resources and perceptions. If I ask Jimmy Johnston what does he think of the snow and ice, I'm sure I couldn't repeat it in this chamber tonight. He's been having a pretty tough time. If you go out and talk to Ole Ueland, what does he think of the snow and ice? He's pretty thrilled with it because he recognizes he's going to raise his cows, feed his hay. So, he's going to have a good year next year. It's going on downstream for fish an every other resource. So we have for one person, the resource right now isn't too good. It's pretty good about three months from now. We're all going to be recreating, enjoying it. But we're fighting it out now. So resource and perception is a good concept to think about for a minute in regard to the Clark Tailings area. We have trains leaving here every day and we all like to see them go. But if we put some money in those cars, we wouldn't like to see it go. That's a resource to us in this project. It's a valuable, valuable resource and

instead of shipping it over where it's going to do nothing over in Deer Lodge County, you're talking bout putting in an area and making a project that can benefit the entire community. You're talking about an area that is going cap off two old dumps. It's gong to take care of the other tailings that is going out there. It's going to alleviate problems for the county for a long time to come. And that resource is a valuable resource to this community just as it's going out in the trains. And it also gets the job done down at the foot of Montana Street. So I would encourage you to think about where everybody has comments tonight on parts. That's the end thing. You have to focus on the end, but how do you get to that end. I've worked on construction projects all my life and what I've seen in the paper is their concerns about construction projects. I don't care if it's Butte-Silver Bow or any construction company, the minute the trucks start rolling, the backhoe starts digging, there's going to be complaints. It's just the way it is. We did a project in Helena last year. We closed off a primary road to the airport for a year. There were complaints about it. The day the road opened everybody forgot about it. They're happy with what was built there now. They weren't happy when it was going on, but once you get by the construction phase, you leave something forever. And, I think that is what the other people are talking about is you are going to have the opportunity to leave something for the community. So, I think it's an excellent project and I think it has a lot of benefits for this community. And, I think you should really give it your consideration to go ahead. The time lines might be short. When they built the prison down there, the old prison was closed down. Forrest Anderson made the decision to build the prison in one day. He said "We're going to do it." and he got a lot of heat over it and if we didn't have the prison that he made the decision on (cause the money was there) and he said we can't let it go. And I think you're kind of in that same kind of a crunch today. I would look at the end use. A lot of people have talked about the end use and I think you're getting pushed into kind of a plan. The end use doesn't really have to be that critical. If you get the land laid out, there's programs out there like Job Corp where I work, and if you take a look at this community -- the High Altitude Sports Center, the field up in Walkerville, all of the Montana Tech Complex -- those things can come a year from now when you get those proposals. So I think there is a real opportunity to clean up a lot of problems in the lower Montana Street area and I'm a strong proponent of this project.

MR. LYNCH - Jim, while you are here let me say one thing. We don't get the opportunity very often but I want Council to be aware that Jim is an instructor with the Job Corp. and he represents Operating Engineers 400. They assisted us on a demonstration project in closing the old landfill dump and they saved this county and its rate payers a ton of money in doing that. Part of the reason we can move forward with this is because the Job Corp. assisted us in that closure and they did a great job and this is an opportunity for us to extend a thanks to you. We don't get that chance very often.

MR. KEANE - Thank you. We worked out there for a year and we would just like to see something develop out there too. When you work a year on a project and it just sits there, you would sure like to see it used for a lot of different things for the community.

JOHN RAY - There is just one request. This has been done before with Public Hearings on Superfund kinds of issues is if a transcript could be sent of everybody's comments to EPA and the State.

MR. LYNCH - We'll do that, John. Anyone else wishing to make comment? Rather than closing the hearing as was the original plan given the motions that transpired earlier, we'll continue this hearing until the meeting of the 25th and then the actual hearing again here the 26th. Mr. Lynch thanked those in the audience for coming and participating in this hearing. He then called for a l0 minute recess at 9:15 pm.

At 9:30 pm the Council reconvened. A roll call votewas taken with 12 present 0 absent.

SECTION I CONSENT AGENDA

A. 1. Committee of the Whole Meeting Report

2. Committee of the Whole Sitting as Judiciary Committee Meeting Report

3. Finance and Budget Committee Meeting Report

4. Judiciary Committee Meeting Report

5. Public Works Committee Meeting Report

6. Personnel Committee Meeting Report

B. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Chief Executive Lynch called for anyone wishing to segregate any item. There being no response, it was moved by Commissioner Kerns, seconded by Commoner Heard and carried by a unanimous verbal vote to adopt the Consent Agenda, Section II-A, Items 1 through 6 and Section II-B, Items 1 through 31.

SECTION IV ORDINANCES & RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 576
ORDINANCE NO. 576

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SUBSECTION (A), (B), (C), (D), (E), AND (F) OF SECTION 10.52.025 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); PROHIBITING PARKING ON PORTIONS OF BROADWAY, IDAHO AND PARK STREETS BETWEEN THE HOURS OF 6:00 A.M. AND 1:00

P.M. ON MARCH 17TH OF EACH YEAR AND DELETING THE PROHIBITION AGAINST PARKING ON MONTANA STREET BETWEEN PARK AND BROADWAY STREETS DURING SUCH HOURS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 1962

A RESOLUTION APPROPRIATING MONIES RECEIVED FROM THE UNITED STATES DEPARTMENT OF JUSTICE TO BUTTE-SILVER BOW TO BE EXPENDED FOR PUBLIC SAFETY ENDEAVORS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION IV ORDINANCES AND RESOLUTIONS - FINAL READING

1. COUNCIL BILL NO. 575
ORDINANCE NO. 575

AN ORDINANCE AMENDING SECTION 16.02 OF ORDINANCE NO. 204 AND CHAPTER 10.52 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "PARKING;" AMENDING SECTION 10.52.020(X),B-SB MC ENTITLED "RESTRICTED ON CERTAIN STREETS;" ADDING A NEW SECTION TO BE ENTITLED "PARKING RESTRICTED IN FRONT OF MOTHER LODE THEATER AND TO BE NUMBED SECTION 10.52.023; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 575, Ordinance No. 575 on final reading and passed having been deemed read at length.

2. COUNCIL RESOLUTION NO. 1957

A RESOLUTION PRESCRIBING THE FORM FOR SUBMITTAL OF ORDINANCES TO THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 1957 on final reading and passed having been deemed read at length.

3. COUNCIL RESOLUTION NO. 1958

A RESOLUTION PRESCRIBING THE FORM FOR SUBMITTALS OF RESOLUTIONS TO THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 1958 on final reading and passsed having been deemed read at length.

4. COUNCIL RESOLUTION NO. 1959

A RESOLUTION APPROPRIATING MONIES RECEIVED FROM THE STATE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT TO BE EXPENDED IN THE BUTTE-SILVER BOW HEALTH DEPARTMENT FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 1959 on final reading and passed having been deemed read at length.

5. COUNCIL RESOLUTION NO. 1960

A RESOLUTION APPROPRIATING MONIES RECEIVED FROM THE STATE OF MONTANA DEPARTMENT OF TRANSPORTATION TO THE BUTTE-SILVER BOW PLANNING DEPARTMENT TO BE EXPENDED IN THE RACETRACK PARK COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM GRANT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 1960 on final reading and passed having been deemed read at length.

SECTION V ORDINANCES AND RESOLUTIONS
SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Kerns's seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays considering that an emergency exists that Council would suspend the rules for the purpose of passing Council Bill No. 577, Ordinance No.. 577 and Resolution No. 1961 by waiving Rule VII of Section XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having them considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL BILL NO. 577
ORDINANCE 577

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SUBSECTION (A), (B), (C), (D), (E), AND (F) OF SECTION 10.52.025 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); PROHIBITING PARKING ON PORTIONS OF BROADWAY,

IDAHO AND PARK STREETS BETWEEN THE HOURS OF 6:00 A.M. AND: P.M. ON MARCH 17TH OF EACH YEAR AND DELETING THE PROHIBITION AGAINST PARKING ON MONTANA STREET BETWEEN PARK AND BROADWAY STREETS DURING SUCH HOURS; DECLARING THAT AN EMERGENCY CONDITION EXISTS AND FINDING THE NECESSARY FACTS FOR SUCH EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 577, Ordinance No. 577 on final reading and passed having been deemed read at length.

2. COUNCIL RESOLUTION NO. 1961

A RESOLUTION REQUESTING THAT THE FIFTY-FIFTH MONTANA LEGISLATURE FUND THE PURCHASE OF VIRGINIA CITY AND NEVADA CITY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Kerns, seconded by Commissioner Heard and carried by a roll call of 12 yeas and 0 nays too place Council Resolution No. 1961 on final passage and passed having been deemed read at length.

ADJOURN

There being no further business to come before the Council, it was moved by commissioner Kerns, seconded by Commissioner Heard and carried by a unanimous verbal vote to Rise to the Call of the Chair.

Commissioner O'Leary reminded the Council that there are five Wednesdays in April. It was decided to take the 23rd off.

The meeting adjourned at at 9:45 PM.

APPROVED BY THE COUNCIL OF COMMISSIONERS THIS 5TH OF MARCH, 1997.

Chief Executive

ATTEST;

Clerk and Recorder

ATTACHMENT B-4

February 19, 1997

Chief Executive Jack Lynch
and the Butte-Silver Bow County
Council of Commissioners
Granite Street Courthouse
Butte, Montana 59701

Subject: Proposed Combined Closure of Old County Landfill and the Clark Tailings with materials from the Colorado Tailings and Lower Area One

Dear Mr. Lynch;

The purpose of this letter is to inform you of the actions of the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit (LAO)).

As you know, these technical and non-technical designs, discussions and negotiations have been conducted by multiple parties over the last several years. However, the BOH was first informed of the proposed actions on February 4th, 1997. Accordingly, there is a lot of information to which the BOH has not had access to, or the opportunity to review. Consequently, our review of the proposed actions has been expedited to the best of our abilities within the allotted schedules.

On February 18th, 1997, the BOH adopted a motion to endorse the proposed closure actions in concept only. At this time the BOH can not endorse the proposed actions entirely, because several technical questions and issues have yet to be resolved to the satisfaction of the Board. A listing of our concerns / questions is attached to this letter as Attachment A. This listing is only for the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period.

The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how those issues may impact the technical integrity of the proposed closure actions.

We had sincerely hoped to provide you with an endorsement of the proposed actions but find that inadvisable due to the lack of information and/or available time to gather that information. We look forward to receiving the information requested in the attachment to this letter.

Thank you for your time and for providing us this opportunity to submit our comments.

Sincerely,

Thomas M. Malloy
Board Member
Butte-Silver Bow Board of Health

TMM

Attachment A

cc: Board of Health
Dan Dennehy, Health Dept.

ATTACHMENT A

The following is a listing of concerns / questions identified by the Butte-Silver Bow County Board of Health (BOH) regarding the proposed combined closure of the old Butte-Silver Bow County landfill and the Clark Tailings with materials from the Colorado Tailings and the Butte Reduction Works site (i.e., Lower Area One Operable Unit (LAO)). The BOH has limited our review and comments to technical issues regarding the protection of human health and the environment. We have not attempted to address other issues, such as proposed land uses or community acceptance, other than as to how those issues may impact the technical integrity of the proposed closure actions.

This listing is only for the concerns identified to date and the Board will continue to monitor additional technical issues as they are identified in the ongoing public comment period. The following concerns are not prioritized and are in no particular order. The concerns / questions are presented in bulletized format for brevity.

1 Regarding air quality, the BOH recommends that an Ambient Air Quality Monitoring Plan be designed and implemented which will be protective of human health and the environment, 24 hours per day. 7 days per week, during all phases of excavation, transportation and construction. The monitoring plan should be designed to address both the perimeter of on-site activities, as well as the nearby communities.

2 Regarding air quality, the BOH recommends that a telephone number and point of contact be made available to the public whereby they may report fugitive dust and/or odor problems / concerns, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction.

3 Regarding air quality, the BOH recommends that the Ambient Air Quality Monitoring Plan include a Dust Response Plan whereby fugitive dust problems will be responded to and corrected in the most timely manner possible, 24 hours per day, 7 days per week, during all phases of excavation, transportation and construction. The concern here is that dry, windy conditions may occur during hours when all of the workers have left the site and/or on non-working days.

4 Regarding air quality, the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that up to 8.5 tons per year of non-methanogenic organic compounds (NMOCs) are expected to be emitted from the old landfill in its peak year of gas production. It is further reported that a permit for this type of source is not required under MDEQ regulations until the source has the potential to emit greater than 25 tons per year of NMOCs.

The BOH questions whether or not the projected 8.5 tons per year (approximately 47 pounds per day or 2 pounds per hour) of NMOCs will endanger the publics' health and/or safety on site and/or downwind in the nearby communities. This point is further exacerbated by the proposed recreational land use of the properties, i.e., having organized recreational activities on site where several hundred or thousands of people are on site in close proximity to the passive gas vents.

An additional point of consideration when considering the projected 8.5 tons per year of NMOC emissions, is that there may be certain individuals within the community who are hyper-sensitive to these gasses. Even if the largest portion of the populace is unaffected by these gasses, there must be due consideration given to anticipate potential impacts to hyper-sensitive individuals in our community.

The BOH recommends that the issue of NMOC gasses and their potential impacts to people, particularly hyper-sensitive individuals, be further researched and that the research be reported back to the BOH.

In any event, the BOH recommends that a contingency plan, including specified response actions, for gas venting be prepared in advance of construction, should it later be realized that alternative gas venting measures are necessary.

5 Regarding air quality and the projected 8.5 tons per year of NMOC emissions, will there be any odors associated with these emissions ? If so, what will be the impact of these odors on downwind communities and/or on recreational users of the facility ?

6 Regarding administrative oversight of the entire project, which is the lead agency ? The Colorado Tailings are being moved under a CERCLA action and being deposited onto a landfill closure site, which is being jointly reclaimed with Clark Mill Tailings, under RCRA standards. What will be the respective roles of the U.S. EPA and the MDEQ ? Will both agencies be responsible for oversight of design and implementation ? Specifically, who are the designated points of contact for questions or problems regarding any and all phases of the project ? Do both agencies have to approve the reclamation plans ?

7 As B-SB County is an active participant in these actions and has substantial responsibilities for maintaining the facilities after construction, what will be the role of the County during construction ? In the event of a disagreement between field engineers during construction, will there be any dispute settlement procedures whereby the County can voice its concerns ?

8 Regarding the caps, the preferred Alternative 8 makes no mention of using lime, limestone or limerock anywhere in the caps. Will any of these or similar alkaline agents be used for any of the proposed caps ? If yes, what are the sources and specifications for these materials, e.g., mesh size, CaCO content, etc. ?

9 Regarding the caps, how will the designs and construction techniques allow for facilities, structures, vegetation, etc., which will penetrate through the cap ? For example, poles for night lights, power poles, water supply lines, sewer lines, trees, shrubs, baseball backstops, football goal posts, etc. must all be anchored to a depth which is greater than the proposed caps.

10 Similarly, how will the facility operators be able to retrofit new or replacement structures / landscaping once construction is complete, without endangering the integrity of the cap and thereby incurring potential additional liabilities ? The BOH believes these retrofit considerations must be engineered and designed into the construction plans prior to construction.

11 Regarding the Capillary Break / Drainage Layer (i.e., a 6 inch layer of coarse materials) to be installed above the infiltration barrier (i.e., clay) layer within the cap, what type of material is this and what is the source ? Page 9-2 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that, "...as a drainage layer, (the coarse materials) will provide a highly permeable medium for which water that has infiltrated through the overlying cover soils to drain by gravity from the cap before infiltrating through the infiltration barrier (clay) layer." Isn't the purpose of the 18 inch infiltration barrier (clay) layer to prevent water infiltration ? Similarly, if the coarse media is to provide rapid drainage, and the water can not pass through the clay layer, where is the water draining to ?

12 Regarding the infiltration barrier (i.e., clay) layer within the cap, page 6-13 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that, "The low permeability soil for the Clark Tailings cap would most likely be clayey sands from the Hollow borrow pit north of the site." "Alternatively, native silts and clays from the LAO Operable Unit, which will be removed as part of that remedial action, may be used for the infiltration barrier layer. These materials would be used if they do not leach unacceptable levels of metals and are approved by MDEQ." "Investigations of these sources of materials (combined) show that there is an adequate volume of these materials available to provide the 126,000 cubic yards necessary."

Under extremely wet field excavation conditions, will it be logistically feasible to segregate the Colorado tailings from the silts and clays which lay below ? What are the levels to be used in determining acceptable vs. unacceptable

levels of leaching metals ? When will the MDEQ approve or disapprove of these materials and what criteria will they use ? If the MDEQ rejects the use of silts and clays from beneath the Colorado tailings, will there still be enough volume available from the Hollow borrow pit ?

13 Regarding irrigation waters for the facilities, page 9-1 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* states that the proposed lined pond south of the tailings areas may also be used as a source for irrigation waters. Will this pond be adequate to maintain the necessary vegetative caps during periods of low-flow or no-flow ? If not, what is the alternative source for irrigation waters ? If a well is to be the source, what will be the location and will that source be adequate during dry years ? Will any proposed irrigation wells have adverse effects elsewhere in the aquifer, e.g., will someone elses well dry up ? Will Butte City water be used ?

14 In the event of catastrophic failure of the cap(s) and/or the Grove Creek water diversion structures, who will be responsible for restoring the caps and other corrective features and any associated site cleanup ? It is our understanding that the designs for handling storm water runoff are for the 10 year / 24 hour storm event. Is this design parameter adequate enough to protect the interests of B-SB County, especially if we are responsible for cap maintenance ? It is not entirely uncommon to have a major storm event in Butte during the June-July time frame which will flush out major gullies and drainages. Are any of the subject properties or structures located in a designated floodplain ?

15 Page 2-6 of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment* describes the 36-inch diameter corrugated pipe dewatering structure used to dewater the Timber Butte Sedimentation Basin. It states further that this pipe is perforated below the ground surface to allow for dewatering of the basin. Page 5-7 states further that, "the Grove Gulch Sedimentation Pond and the Timber Butte Sedimentation Basin remove the majority of suspended solids and associated metals from these water columns. However, during high flow events, there is the possibility that eroded soils (and tails) may not be removed from the water column before discharging to Grove Gulch."

It has been reported that tailings from this site have already reached Grove Creek and migrated downstream where several properties have visible tailings deposited along the creek channel. Are there any plans to address these impacted properties and/or the creek channel during this proposed closure action ? If not, when will they be addressed ?

16 What measures will be taken to prevent unauthorized pedestrian and/or vehicle access (especially motorcycles) to the properties during construction and afterwards ? This is critical for both safety and cap failure / success.

17 In the Attachments section of the Final Draft of the *B-SB Landfill / Clark Tailings Corrective Measures Assessment*, a copy of a letter is provided, dated March 23, 1995, from Mr. Robert J. Robinson, Director of the Montana Department of Health and Environmental Sciences and addressed to Mr. Jack Lynch of Butte-Silver Bow County. The subject of the letter is the proposed combined cleanup of the Clark Tailings and the old County landfill. Mr. Robinson states, "MDHES agrees with the proposed approach provided that the following (four) conditions are met." Condition Number 4 states, "B-SB will need to involve the public fully in the evaluation and selection of corrective actions and closure options for the combined site."

The Board of Health appreciates the need to expedite these cleanup activities in the most efficient, timely, cost-effective and thorough manner. Additionally, we appreciate the need to take the maximum advantage of Buttes' short construction season. However, the Board believes ~~that~~ the 16 days provided for public comment (i.e., February 5th to February 21st) may not be adequate for the general public, or the BOH, to receive, review, digest and comment upon the many technical intricacies associated with a project of this magnitude.

Please be advised that other technical issues regarding public health and safety may yet be raised during the public comment period. The BOH recognizes this and reserves its ability to further amend the Boards' comments / concerns.

Butte Silver Bow
Planning Board
155 W. Granite
Attn: John Sesso

RECEIVED FEB 18 1997

James A Fisher
2902 Hill St
Butte, MT 59701

RE: Recreational Park on old Landfill Dump Site

To Whom Concerned;

I have no problem with moving the waste from Lower Area One to old Landfill site. I do wonder if you have done much Research on the Idea of New Softball fields. I am an avid Softball player for many years and the sport has had a decline in interest for the last 7 years. If you consult anyone who plays Softball you will find that Butte has not been able to support a weekend Softball tournament for many years "There is no interest" in the game. Week night games as in the City Rec. League - teams have dropped by the numbe. We can no longer find a use for the 3 fields at Stodden Park. The last 5 years Butte cannot get 5 or 6 teams to play a tournament. (Please verify my information w/ Bob Rollings Butte City Rec. Director.) Maybe a miniture Golf course or something that has a use wald be more acceptable to Butte. I'm sur that there is better use for land than softball fields.

Sincerely,
James A Fisher

Fisher James
2902 Hill ST
Butte, MT
59701

BUTTE, MT 597
PM
14 FEB
1997

USA 32

Butte Silver Bow
Planning Board
155 W. Granite
Butte, MT. 59701

ATTN: Jon Sesso

P. Crowley

RECEIVED

FEB 19 1997

MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

February 14, 1997

From: Jim Kuipers P.E., Technical Advisor - CTEC
To: CTEC, BSB, U.S EPA, MDEQ, ARCO

Re: Clark Tailings - BSB Landfill / LAO

My role as Technical Advisor to Citizen's Technical Environmental Committee (CTEC) is defined under contract approved by the EPA as being responsible for conducting technical evaluations on Superfund activities by meeting with EPA and MDEQ personnel, reviewing technical documentation and providing written comment, attending technical public meetings, and participating in the public information and review process pertinent to the Silver Bow Creek / Butte Area and Montana Pole and Treatment Plant Superfund sites. In doing so I pay special concern to CTEC's responsibility to the community to voice and bring out issues of concern to residents affected by Superfund cleanup decisions.

Given the extraordinary opportunity to have open access to technical information as well as participate in the public process, and make comment upon it in an independent manner, puts me in a unique position that properly used can be of advantage to all involved parties. In this memo I have tried to suggest what can be done to improve upon the proposed project, and hope you can use it as constructive input towards matters of public opinion, health and safety, and environmental protection. I do so as an independent technical advisor, and these comments are not necessarily representative or all inclusive of those of CTEC.

I have reviewed the available information and have met and discussed this matter with many of you. I believe the Clark Tailings - BSB Landfill / LAO plan is worthy of your consideration provided the following issues are addressed:

1. **Local Resident Concerns**

   Local resident concerns have not been adequately addressed. Their concerns include construction haul truck crossing safety and inconvenience; dust and noise pollution during construction; loss of quietude, solitude, rural surroundings; traffic impacts from increased volume compounding existing hazards including mud, dust, Rowe Rd & Suicide Corner intersections; ballpark lights and noise, particularly at night. In exchange for their inconvenience, what benefits are being offered specifically to the local community?

   I believe highly adequate plans with respect to health and safety exist and only need to be more fully presented. Has the option of moving LAO tails to the Clark Tailings / Landfill site and leaving the area as open space after capping and avoiding unwanted park impacts, and placing the park elsewhere been considered (or improving/consolidating existing parks)? Should installation of park lights be discouraged and park usage scheduled carefully to address local concerns?

   In ARCO's benevolence they address community recreation projects that present an optimal public image. But unless they also address other local priorities, such as in this case rural road paving, we might end up with a large public parks department while no funds are available for what the public sees as more critical infrastructure construction and maintenance.

2. **Completeness of Documentation**

All technical information pertaining to this proposal has been made readily available by the agencies, ARCO and BSB. However, the BSB/ARCO "Business Agreement", pertaining to responsibilities, liabilities, funding, etc., which is most critical to the overall proposals value to the residents of BSB, has not been made available to the public.

Endorsement of the proposal as a whole cannot be made without the key information. Given that the agreement was not included with other information presented during this past week of the public review period, I would suggest an additional week be added to the review period for review, question and comment - out of respect for the legally established public review process and in the sense of fairness to the public.

3. **Concept to Completion**

Conceptual plans to remediate the potential for contact to harmful pollutants such as volatile organic compounds, metals, and erosional sediments through the air, ground and surface water should provide long-term protection within legal mandates. Whether this will in fact be the outcome is entirely dependent upon the details of the actual design, construction and maintenance, and how they are implemented. This addresses such matters as detailed design, clay specifications, compaction and moisture standards, cap installation, etc.,.

In EPA Superfund projects the Bureau of Reclamation (BOR) provides engineers and inspectors responsible for project health and safety aspects and for insuring that the agreed upon specifications are adhered to. In the case of this particular project, will the BOR have jurisdiction over the Clark Tailings / Landfill area, and if not, how will the public be insured that they are getting what was agreed upon and specified?

4. **Why Change the Plan**

The reasoning behind the proposal is unclear to the public, with many wondering why we shouldn't keep hauling the LAO materials to Opportunity Ponds. While the proposal is cited as key to allowing other Superfund projects in the area to proceed on schedule, many believe that ARCO benefits mostly from this proposal (we all know time is money). We also have the railroad saying they could do the job faster - but there is a "contractual" issue.

ARCO says, and my preliminary figures confirm, they will spend more than they recover. This does not take into account the financial value of speeding up other projects, which is significant, but ARCO can hardly be blamed for wanting to expedite the overall cleanup. Information should be presented to the public that allows for accurate evaluation of the cost/benefits to all parties.

5. **Recreation as End-Land-Use**

The reason the Clark Tailings / LAO / and Landfill are to be capped, vented and monitored is because they are a proven and recognized hazard to the public. What is being done is repositing the materials. Not conducting any type of remediation or in any way eliminating the hazard, but just containing it. Are we so certain of our containment, which by specification must only last 30 years, that we want to encourage the public to frequent, much less play, over the top of the tailings, or even in the vicinity of the landfill.

I am very uncomfortable with recommending that we take unnecessary risks with the health and safety of the public, particularly when other reasonable options are present which might preclude exposing the public to danger. And I am certainly not prepared to be held professionally liable for making a recommendation that a pre-school playground area be built on the site (again - build it somewhere else in the local community).

While the positive public perception of turning wasted areas into public green areas is tempting, I feel this is a critical argument for leaving the area as open space and investing the park dollars for more certain beneficial uses.

6. Public Process

The usual public comment period is 30 days from the time the complete and final documentation is available. Any shortening of this legally mandated time period requires extraordinary circumstances, such as a time-critical removal action or action to correct an immediate hazard. Inability by the various involved and responsible parties to make the necessary agreements and prepare the necessary documentation should not be considered a compelling reason for shortening the public review process. If the project constraints are so tight as to not allow for an additional week for public comment, then the overall project outlook is in question. The parties are not encumbered from continuing work to advance the project on time, contingent upon final approval.

I recommend an additional week of public review out of respect for the democratic public process that defines our nation. Also, in observation of the very high level of interest shown by local citizens in the proposal, it is suggested that an additional open-forum public meeting be held - this would be an excellent time to present information responding to issues raised by the public and any changes that might result from their input. We should be interested in the exchange of information, not informing each other of our already known views.

7. Colorado Tailings Specifics

Given the removal of the roughly one million cubic yards of remaining Colorado Tailings to the Opportunity Ponds, which contain almost one half billion yards of tailings, characterization of the hazardous nature of the Colorado Tailings was of less importance. Under the proposal they are to be hauled through and stored in what is essentially a residential district. Given this it would be worthwhile to further clarify the nature of the wastes, particularly with respect to any risk they might represent to public health.

Examination of existing data should be sufficient to do so. Observations and comment from persons directly involved in the excavation would be useful also. The analytical detection or visual presence of mercury would be of specific interest.

I respectfully ask that you consider these issues on behalf of the citizens of Butte-Silver Bow. I strongly trust that if you will openly consider and address these issues, whatever decision you make in the end will be in the best interest of our community.

cc:
M.K. Craig - CTEC
D. Sheehy - BSB Commissioner
J. Lynch - BSB Chief Exec.
R. Bertram - USEPA
J. Sesso - BSB Planning Dept.
B. Melvin - BSB Commissioner
P. Crowley - MDEQ
C. Stillwell - ARCO

CTEC
Citizens' Technical Environmental Committee
P.O. Box 593
Butte, MT 59703

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Mr. Pat Crowely
Montana Department of Environmental Quality
Solid Waste
P.O. Box 200901
Helena, MT

59620-0901

ZIP!Office Release 1.26

Printed by: Crowley, Frank at 02/12/97 11:15a

To: Crowley, Frank

From: Kirley, Kevin

Date: February 12, 1997 10:24a

Subject: (Attachment 1)LAO public meeting

--- Attachment: FEB11MTG.SUM (Word Perfect 6.1) ------------

Butte LAO
February 12, 1997
Public Meeting for Clark Tailings Disposal Site

upcoming meetings:
13th CTEC
19th public hearing
26th council decides

concerns expressed by the public at the meeting:

1. are there test wells in the Clark Tailings, are there deep wells in the aquifer, check MBMG well survey

2. will blowing dust from trucks, dumping and drying be controlled, will monitoring be conducted

3. has subsidence after placement of LAO been considered

4. the dust blew in 1986 and will there be assurance that it will be controlled this time

5. how will Montana Pole contaminants be prevented from moving offsite; how will traffic problems be handled

6. the haul frequency is too much and how will ARCO respond to cutbacks

7. where will the clay for the cap come from

8. where is Grove Creek flow through and how will sediment runoff be controlled, maintenance of sediments runoff needs

to be addressed, check with Sara and James on sediment concerns

9. why is this action necessary when a perfectly good disposal place exists

10. will plateau of these waste cause runoff problems

11. is the cleanup of Grove Creek going to be part of this action

12. how will capping the waste with contaminated clay be of help

13. will Streamside Tailings wastes be brought up to Clark tails

14. why isn't the railroad being used more that it has been

15. what happens to the site if LAO doesn't go to Clark tails

16. runoff on the east side and subsequent drainage causes problems, will it be addressed

17. is this a done deal

18. why is ARCO doing this if there is no big $ savings

19. will ARCO guarantee that my well will be protected and are the roads going to be fixed, check on wells with MBMG

20. where will ground water for irrigation come from

From: M.STEGER SMITH
To: CB5403, CB5591
Date: 2/5/97 11:03am
Subject: Granite County proposed container / transfer station legislation.

Pursuant to our 2/4 office conference with Larry Mitchell, Jon wants us to contact the landfills that would be negatively impacted by the above referenced proposed legislation. All contact should be telephonic **only**. Comments should be viewpoint neutral, and should be for the limited purpose of informing the landfill of the proposed law and its potential impact on the landfill; i.e., it would allow commercial collectors to dump collected refuse into containers at container sites where the containers have a volume of 50 cubic yards or less. It is important to note that, under the proposed law, the landfill would not be able to prohibit the collectors from dumping into the container site containers. We're not saying that is bad or good- merely that it is the way things will be under the proposed law. Of course, we would not object if they called their representatives to voice their concerns.

At our meeting yesterday, the following facilities were mentioned: Flathead, Nor. MT Joint Refuse District and Madison County. Please compile a list of any additional facilities and then let's meet to decide who will call whom. Thanks.

CC: CB5415

Silver Bow Co.
Old Butte #20
Ground Water
Corrective
Measures
+
Closure

PUBLIC INFORMATION MEETING
BOULEVARD FIRE HALL
FEBRUARY 11, 1997

PURPOSE: To discuss the proposed plan for closing the Old Butte-Silver Bow Landfill and the Clark Tailings Superfund Site AND using the Clark Tailings area as a disposal site for the Lower Area One waste.

PRESENTERS:
Charlie O'Leary, BSB Council of Commissioners
Bill Melvin, BSB Council of Commissioners
Jon Sesso, BSB Planning Director
Bob Rowling, BSB Parks Director
Pat Crowley, MT Dept. of Environmental Quality
Ron Bertram, US EPA
Brad Archibald, BSB Technical Consultant
Chuck Stillwell and Eric Jacobson, ARCO

AGENDA: Part I: Technical Discussion
- Landfill Closure
- Clark Tailings Closure
- Colorado Tailings Transfer to Clark Tailings Area
- Cap Requirements Over Clark Tailings
- Monitoring and Maintenance Requirements

Questions and Answers on Technical Issues

Part II: Final End-Use Discussion
- Proposed Recreational Facility
- Operation and Maintenance Requirements

Comments, Questions, and Answers on Land Use Issues

FROM : BUTTE COPPER KINGS BB PHONE NO. : 406 723 3376 Feb. 10 1997 11:22AM P01

Silver Bow Co.
Old Butte: I.F. #20
Closure

COPPER KINGS™

BUTTE COPPER KINGS BASEBALL CLUB

FAX COVER SHEET

NUMBER OF PAGES (INCLUDING COVER PAGE) 8 DATE: 2-10-97

TO: MR. PAT CROWLEY

FROM: TED TORNOW

RE: CLARK TAILINGS

ORIGINAL TO FOLLOW IN MAIL: YES ______ NO ✓

PLEASE CALL US IMMEDIATELY IF THE FACSIMILE IS NOT CLEAR OR READABLE

MESSAGE: PLEASE FORWARD THIS INFORMATION ON TO MR. CROWLEY —

THANK YOU —

Ted Tornow

RECEIVED
FEB 10 1997
MONTANA
DEPT. OF ENVIRONMENTAL QUALITY
COMMUNITY SERVICES BUREAU

Post-it® Fax Note 7671		Date	# of pages ▶
To Brad Archibald		From Pat	
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

* The information contained in and attached to this facsimile is confidential and is intended only for use by the individual or entity named above. If the reader of this message is not the intended recipient or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message at the below address via the postal service.

Alumni Coliseum • P.O. Box 186 • Butte, Montana 59703 • (406) 723-8206 • FAX (406) 723-3376

BUTTE COPPER KINGS BASEBALL CLUB

February 10, 1997

SENT VIA FAX

Mr. Pat Crowley
State of Montana Department of Environmental Quality
State Capitol Building
Helena, Montana

Mr. Crowley:

This letter is in response to the actions taken by the Butte/Silver Bow County on February 5, 1997 in relation to the area described as the Clark Tailings.

The Department of Environmetal Quality has the responsibility of determining that the plans for remediation in Butte/Silver Bow correct the environmental problems related to a century of mining. If possible, the cleanup can be done in a manner that benefits the community in other ways. Such is the concept behind the Clark Tailings plan advanced by Butte/Silver Bow last week.

In overseeing these Superfund activities, the Department of Environmental Quality as a public agency needs to insure that proper public input goes into public decisions. In the case of the plan advanced last week by Butte/Silver Bow, it is obvious that there was a lack of adequate public involvement in the preparation of the plan. Specifically, the Butte Copper Kings Baseball Club concepts, which we have advanced verbally and in writing to local officials, have been ignored.

Apparently, only certain voices were allowed to be involved in the decisions that led to the plan that was unveiled. That deficiency requires that adequate time be given now to provide a meaningful opportunity for input for those who support the plans advanced by the Butte Copper Kings Baseball Club.

We hope that you will insure that the approach currently advanced, meritorious as it is, is not adopted until the rest of us are not only heard, but given serious consideration. That will not take place in the short "comment period" time frame currently in effect. We need your help.

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I spoke with Jon Sesso and Jack Lynch many times throughout the spring of 1995 during MERDI's presentations of the Greenway Project. MERDI officials asked for community input on what to do with all of the land that was under the "ARCO umbrella of responsible clean-up". The use of Clark Tailings as a project site was identified during these hearings, which attracted the input and involvement of over 1,000 area residents.

I also talked with Mr. Lynch and Mr. Sesso on dozens of occasions throughout the rest of 1995 and 1996 about the possibility of the Clark Tailings land, as well as the Greenway Project options. I brought up my ideas again after the 1996 season and was told by Mr. Sesso to "forward on to all interested parties your ideas concerning a new multi-purpose facility in regards to the reclamation effort."

I sent via FAX a letter and sketch outlining my ideas (see enclosed memo) to officials directly related to both the Clark Tailings project and the Greenway Project. This information was sent out on December 2, 1996. At the conclusion of my communication, I offered to meet and discuss the proposal with any and all parties. Notwithstanding the fact I saw Butte/Silver Bow officials during the interim, I was never provided the opportunity to explain to them in detail the plan outline.

Obviously the Butte/Silver Bow plan was released last week and to no surprise, there was no consideration of the proposal that the Butte Copper Kings Baseball Club made.

After finding out that our proposal had been ignored, I feel the need to ask two simple questions. There are:

- If the Butte/Silver Bow "plan" has been under consideration for four years, as has been told to me by members of the Butte/Silver Bow government, why didn't Mr. Lynch and/or Mr. Sesso ever inform me that the possibility of adding a multi-purpose stadium was not in their plans??

- In a meeting with Mr. Lynch in his office on Friday morning, February 7th, Mr. Lynch stated: "I strongly suggest that the Butte Copper Kings and the ownership group stay away from the neighborhood and council meetings. I do not want to jeopardize our agreement with ARCO and lose the two million dollars ($ 2,000,000) to something else." Why would Mr. Lynch or any other public official suggest that members of the public stay away from public meetings??

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BUTTE COPPER KINGS BASEBALL CLUB

- crowley - page three -

Our proposal is for a multi-purpose stadium that would house the Butte Copper Kings in the summer, be host to high school football games in the fall and be the site of as many different events as possible throughout the year.

The underlying reason is economic development. We had close to 40,000 people attend our games this past season - a franchise record. I know that with a new facility, attendance figures will be significantly increased. The more people - the more money spent in Butte. It has been figured - using Chamber of Commerce figures - that the economic impact of the Butte Copper Kings Professional Baseball Club on the city/county of Butte/Silver Bow already is $ 1,965,500. With a new stadium, the economic impact will go up considerably.

While the Butte/Silver Bow plan currently under consideration is a worthy one, the Butte Copper Kings Professional Baseball Club ask that we be included to create a "sportsplex" that will benefit everyone involved, not just certain groups.

Again, we ask for your help.

Sincerely,

Ted Tornow

Ted Tornow
Vice-President and General Manager

cc: Governor Marc Racicot
Lieutenant Governor Judy Martz

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BUTTE COPPER KINGS BASEBALL CLUB

DECEMBER 2, 1996

SENT VIA FAX

To: Evan Barrett, Marci Kerner, Jack Lynch, Don Peoples Sr., Bob Rowling,
Jon Sesso and Sandy Stash
From: Ted Tornow, Butte Copper Kings Baseball Club
Re: Greenway Project - Clark Tailings

I have been asked by Jon Sesso to forward on to all of you a written form of some ideas that Jon and I shared over the phone last week.

These ideas may not and probably will not be new to you, as I have talked to each one of you at some point or the other in hopes of securing a new playing facility for the Butte Copper Kings Baseball Club ever since I came to Butte in January 1995.

With the much-anticipated move of the Colorado Tailings to the Clark Tailings area comes a huge question?? What to do with all of this reclamated land??

At the public forums that Don Peoples and his staff ran back in the spring of 1995, there was a large number of people that wanted more recreational areas for youth and adult softball and baseball and overall general park use. Overcrowding at existing parks mean little or no playing time for the youth of our communities.

From these forums came my idea of integrating a park with youth / adult softball / baseball fields, as well as a multi-purpose stadium.

Two or three "quads" (four softball/baseball fields connected together with a common center point for restrooms, concessions, etc..) could be placed alongside the multi-purpose stadium. These fields will take the load off over-used Stodden and Father Sheehan Parks. These fields could also be used for youth soccer fields.

The multi-purpose stadium can be used in many different ways.

First and obviously, for the Copper Kings. We would be more than happy to sign a very long-term lease to stay in Butte if such a facility were built. Being the main tenant, we would also like to manage the facility. Existing Alumni Coliseum (over 30 years old) is a great American Legion and Babe Ruth baseball facility and that is EXACTLY what it is - AN AMERICAN LEGION AND BABE RUTH BASEBALL FACILITY. The Butte Copper Kings have spent nearly $ 100,000 in renovations to Alumni Coliseum since my arrival. The "bandaid over a flesh wound" approach can only be sustained for so long. The club was in peril of moving to another city if a warning track was not installed at Alumni Coliseum. The stadium is not "up-to-code" with Major League Baseball, as well as the ADA and the majority of our fans. Plus, with both American Legion teams playing on our field, the playing surface takes a beating. Both Legion teams can have full access to Alumni Coliseum, with special tournaments and playoffs held at the new facility.

COPPER KINGS

BUTTE COPPER KINGS BASEBALL CLUB

- Greenway Project - page two

We had our best season ever in 19-years, drawing more fans to the stadium than ever-before. We are making plans for an even bigger and better 1997.

Secondly, the stadium could host football games in the fall. By the end of the football season, when Butte Central played its playoff game at Bulldog Memorial Stadium, the grass was in terrible shape. The field takes a pounding because every team, from the varsity to the junior varsity (of both high schools) to the Little Guy football program, plays there.

Third, soccer tournaments. To hold the state soccer tournament, 12 soccer fields are needed. With the addition of the "quads", the multi-purpose stadium could hold such an event.

Extra events, such as concerts and festivals, could make the multi-purpose stadium an exciting place to come to, especially if you have never been to Butte for anything other than St. Patrick's Day or the Fourth of July.

All of these ideas bring up yet another great benefit of building such a stadium - money. Instead of going out-of-town for tournaments and invitationals, why not play it right here in Butte?? The hotel and restaurant people in Butte can let you know real quick if they think that the stadium would be a good idea. Local businesses, such as suppliers and wholesalers, would benefit from the stadium.

Depending on which Chamber of Commerce official you talk to, the formula for figuring out "Economic Impact" will vary. I can assure you that the Butte Copper Kings spent a whole lot of money in Butte the past two seasons and that money is re-circulating itself all the time.

The specifics regarding the multi-purpose stadium and overall area do not have to be discussed at this time. I have sketched a very crude drawing of my ideas - it is on the following page. The drawing represents no specific plan, other than for the purpose of giving you some idea of what I had in mind.

For personal reasons, I ask that the contents of this letter be kept STRICTLY CONFIDENTIAL until such time a decision is made in regards to the land and a plan is put into place.

Finally, thank you all very much for taking the time to read this letter and for your cooperation. If you have any questions or comments, please give me a call. I would be more than happy to meet and discuss this further.

Best wishes --

Ted Tornow

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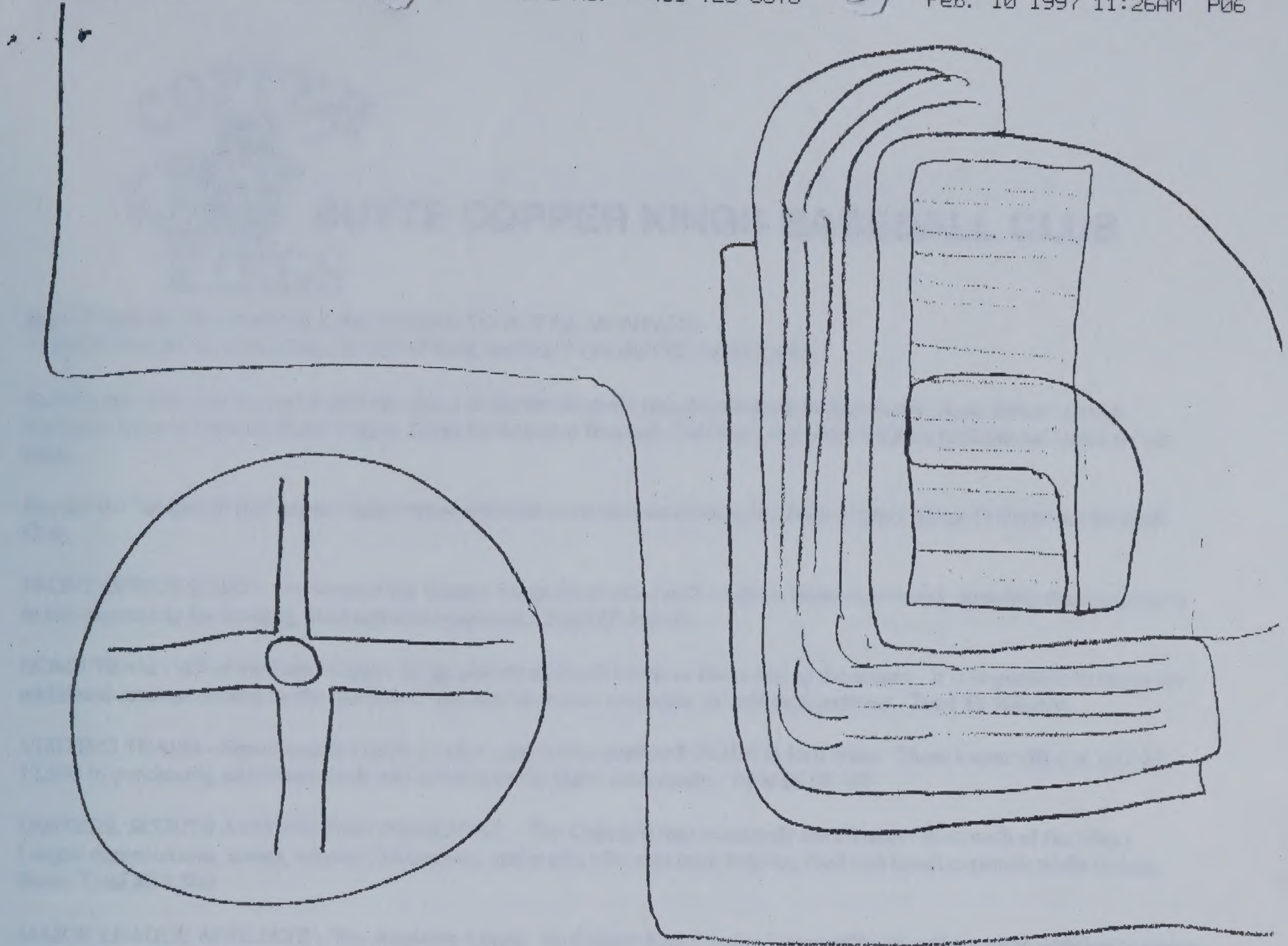

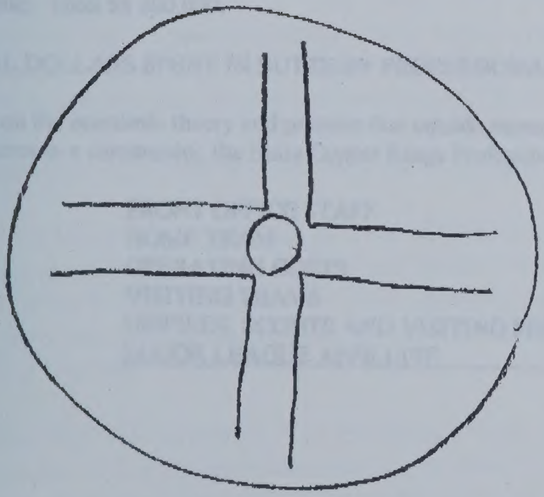

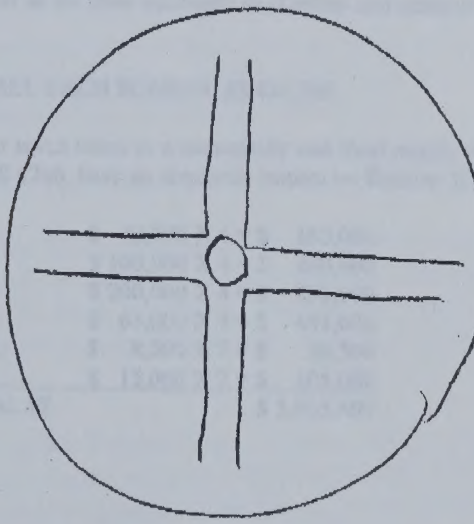

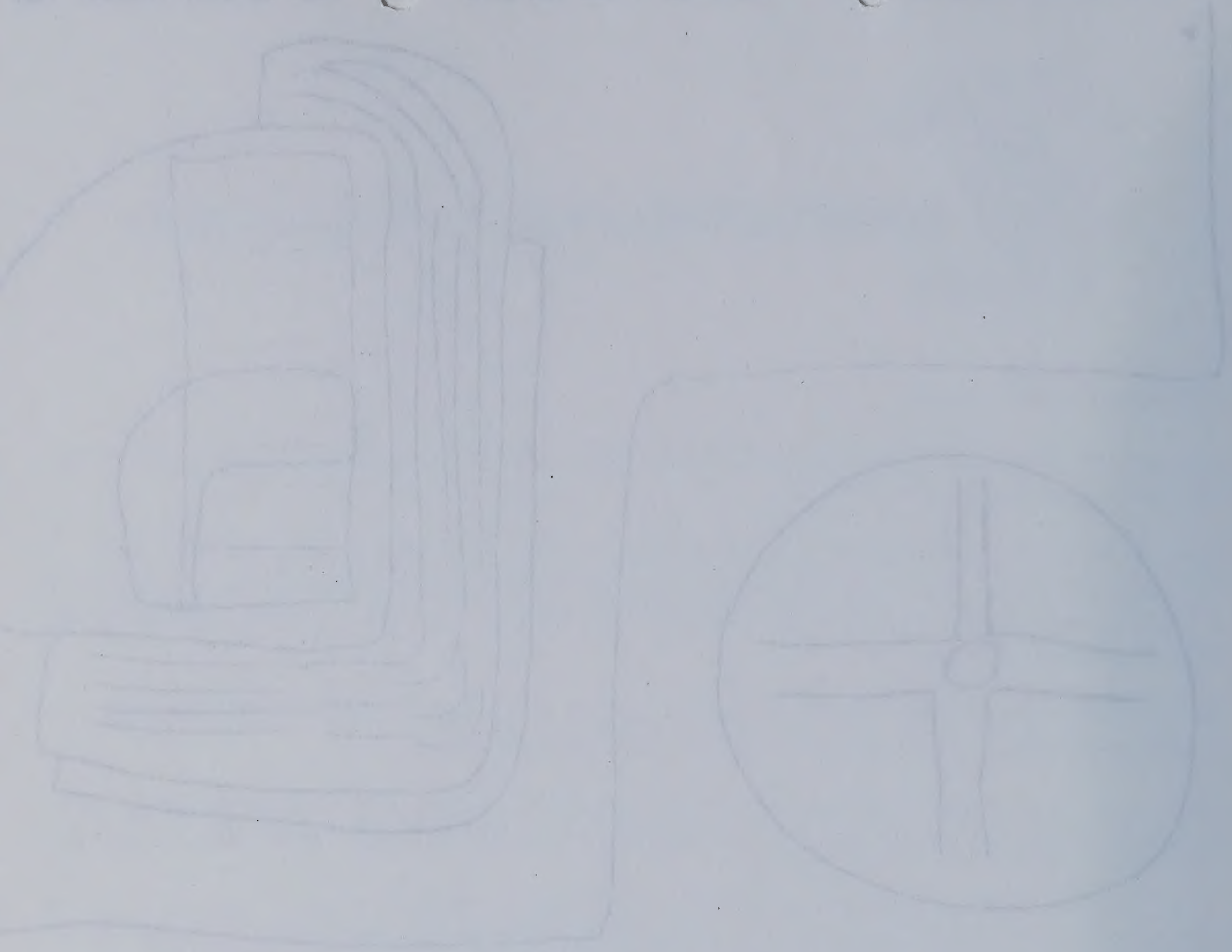

BUTTE COPPER KINGS BASEBALL CLUB

WHAT THE BUTTE COPPER KINGS MEAN TO BUTTE, MONTANA
-- PROFESSIONAL BASEBALL'S ECONOMIC IMPACT ON BUTTE, MONTANA

As with any other city or market area that has a professional sports franchise located in their midst, Butte derives certain economic features from the Butte Copper Kings Professional Baseball Club that other cities without professional teams do not enjoy.

Besides the "quality of life" aspect, listed below are some hard facts concerning the Butte Copper Kings Professional Baseball Club.

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TOTAL DOLLARS SPENT IN BUTTE BY PROFESSIONAL BASEBALL EACH SEASON: $$ 426,500.

Based on the economic theory and practice that outside money turns over seven times in a community and local money turns over four times in a community, the Butte Copper Kings Professional Baseball Club have an economic impact on Butte as follows:

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BUTTE COPPER KINGS BASEBALL CLUB

February 8, 1997

To: All Butte / Silver Bow Council of Commissioners

Re: Proposed Plans for Clark Tailings

My reason in writing to you is quite simple. I am asking you to change the proposed Clark Tailings plan to include a multi-purpose stadium. We respectfully request the opportunity to address the Council of Commissioners at the hearing on Wednesday, February 19, 1997.

Everyone wants to see the environmental cleanup of Butte done in a manner that also benefits the community in other ways. Such is the concept behind the Clark Tailings plan advanced by Butte/Silver Bow officials last week.

As attractive as the proposal is, it is fatally flawed in one major way. There was not enough involvement of the public or the Butte Copper Kings Baseball Club in the development of the proposal. In fact, our specific proposals were ignored and we were not invited into the project despite the fact that we asked key Butte/Silver Bow officials to talk further with us about our proposals.

Apparently, only certain voices were allowed to be involved in the decisions that led to the plan that was unveiled. That deficiency requires that adequate time be given now to provide a meaningful opportunity for input for those who support the plans advanced by the Butte Copper Kings Baseball Club.

We hope that you will insure that the approach currently advanced, meritorious as it is, is not adopted until the rest of us are not only heard, but given serious consideration. That will not take place in the short "comment period" time frame currently in effect.

We need your help. There is no reason for a "rush to judgment" with this plan. Please direct the Butte/Silver Bow staff, which works for you, to go back to the drawing board for several weeks and put together a Clark Tailings plan that involves, or at least gives serious consideration to, the multi-purpose stadium concept we have advanced.

Let me tell you more about our situation, our ideas, and how we have been treated in this process.

The Butte Copper Kings Professional Baseball Club is celebrating its 20th anniversary in 1997. The team has produced major league all-star players, such as: Cecil Fielder - recently honored in Butte at a function this past month and a member of the World Champion New York Yankees, Julio Franco, Kevin Seitzer, Omar Visquel, Benji Gil, Roger Pavlik, Rob Nen, Rey Sanchez and Rusty Greer. A total of 44 players have played in Butte in the last 20 years en route to the "big leagues".

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council - page two -

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I also talked with Mr. Lynch and Mr. Sesso on dozens of occasions throughout the rest of 1995 and 1996 about the possibility of the Clark Tailings land, as well as the Greenway Project options. I brought up my ideas again after the 1996 season and was told by Mr. Sesso to "forward on to all interested parties your ideas concerning a new multi-purpose facility in regards to the reclamation effort."

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Ted Tornow
Vice President and General Manager

BUTTE COPPER KINGS BASEBALL CLUB

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COPPER KINGS

BUTTE COPPER KINGS BASEBALL CLUB

DECEMBER 2, 1996

SENT VIA FAX

To: Evan Barrett, Marci Kerner, Jack Lynch, Don Peoples Sr., Bob Rowling,
Jon Sesso and Sandy Stash
From Ted Tornow, Butte Copper Kings Baseball Club
Re. Greenway Project - Clark Tailings

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COPPER KINGS

BUTTE COPPER KINGS BASEBALL CLUB

- Greenway Project - page two

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Best wishes --

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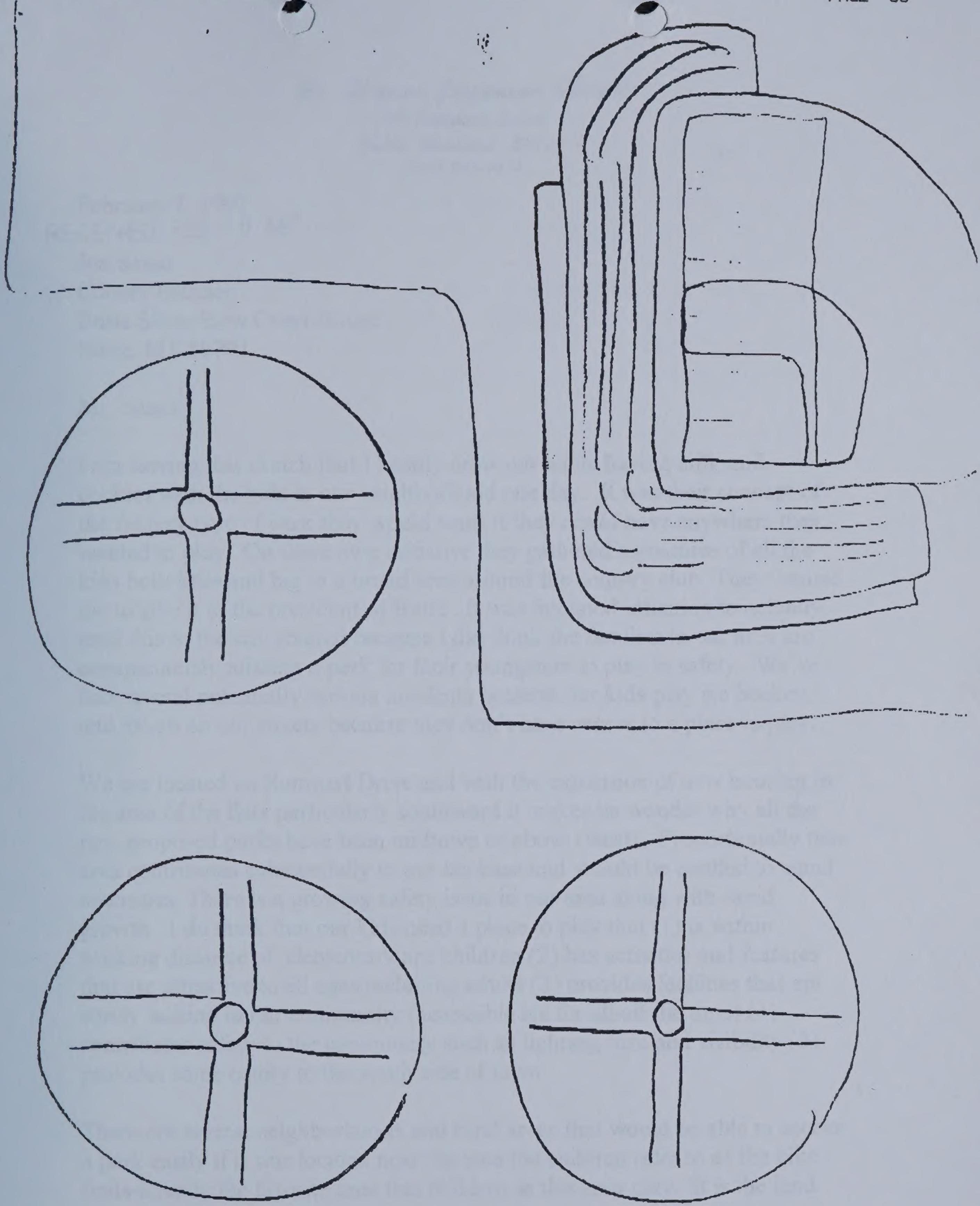

Ms. Shanna Jorgensen Ahmed
130 Rampart Drive
Butte, Montana 59701
(406) 494-4677

February 7, 1997
RECEIVED FEB 10 1997

Jon Sesso
County Planner
Butte Silver Bow Court House
Butte, MT 59701

Mr. Sesso;

I am leaving this sketch that I hastily drew out while having milk and cookies with the kids in our neighborhood one day. It was their concept of the fantasy type of park they would want if they *could* have anywhere they wanted to play. On there own initiative they gathered signatures of all the kids both little and big in a broad area around the country club. They wanted me to give it to the president of Butte . It was my good intention to actually mail this to the city council because I did think the families in our area are conspicuously missing a park for their youngsters to play in safely. We've had several potentially serious incidents because our kids play ice hockey and sleigh on our streets because they don't have access to a place to play.

We are located on Rampart Drive and with the expansion of new housing in the area of the flats particularly southward it makes us wonder why all the new proposed parks have been midtown or above (west). Proportionally this area contributes substantially to our tax base and should be entitled to equal amenities. There is a growing safety issue in our area along with rapid growth. I do think that our kids need a place to play that (1) is within walking distance of elementary age children (2) has activities and features that are attractive to all ages including adults (3) provides facilities that are sorely lacking in our community (accessible ice for all-all the time) (4) contributes safety to the community such as lighting, size and visibility (5) provides some equity to the south side of town.

There are several neighborhoods and rural areas that would be able to access a park easily if it was located near the area the children refer to as the bike trails-already the favorite area that children in this area play. It is the land

that is located south of Redwood and north of the road with the Mormon church. It is boundaried by the Olympic Speed Center on the east and Blacktail Lane on the west. Undoubtedly this is potentially expensive land but the enthusiasm and willingness the families in this area show toward community investment provides the possibility for creative solutions in acquiring a park that everyone in Butte would be proud to share.

The ideas for the new park on contaminated sites seems ludicrous at best to me. Planting grass over questionable materials is not going to make it a desirable place for me to cart my children. In addition none of the proposed activities make sense for our area seasonally as priorities, perhaps in Miami.

I think to give to our children we need to find out from them what it is they would want if they *could* have anything. I hope you keep the kids in mind when building for them.

Cordially,

Shanna J. Ahmed

Shanna Jorgensen Ahmed

Kid[illegible] want [illegible] our neighborhoo[illegible]

...ites grades

1.	Jennifer Ahmed	130	rampart dr.	3 grade
2	Alexis DiGiovine	116	rampart dr.	3 grade
3	Tina Pieters	132	rampart dr.	6 grade
4	Joi Walker	132	Rampart Dr.	[redacted] 2 ? going
5	Dana Harrington	135	Rampart Dr.	Senior
6	Joan Skrastin	129	129 Rocky MTN	Sen
7	Rory Brown		125 Rocky Mtn Ln -	9th
8	Brittny Randle	208	Rocky Mtn Ln -	2
9	Annie Michaud	105 103	Rocky Mtn. Ln.	6th
10	Kristin Owings	[redacted]	Rocky mtn Ln	5th
11	Judy D[illegible]		Rampart Dr [redacted]	(mom)
12	Brad Pascoe		104 Country Club Ln	9
13	Peter Chapin II		106 country club Ln	11th
14	Jennifer Bermingham		105 Country Club Ln	11th
15	Shanna J. Ahmed	130	Rampart Dr.	(mom)
16	Justin Ahmed	130	rampart Dr.	1st grade
17	Kevin Benton	21	Bittersweet	3rd gra
18	Julie DeMaio	104	fleecer dr	5 grade
19	Joanne DeMaio	104	fleecer	2 grade
20	Michelle Nelson		5375 Saddle Rock	
21	Jessi Cummings		4150 Hillside Dr.	6TH
22	Mrs. Chapman		Student Teacher	

23 Brittney Krusemark
24 105 Woldren Drive
25 grade 3 ~~third~~

Tommy
1201 EOwords
third

26 Anna Chouinard 3400 Hill Apt 1202 Spec Ed. Monitor
27 Kyle Murray 340 Whatan Third
28 Kayleigh Broun 91 Barning tree ln 3gra
29 Justin Robertson 2640 Edwards 3 grade
30 Keelie Rosa 3501 ELizabith Warren 3grad
31. Nicolle Phillips 1175 Blacktail loop rd 3 grad
32 Katelyn D. 2712 state st grade.
33 Lexi Davenport 3899 Blacktail looprd 3 gra
34 John. 2838 Edwodes 3 grade
35 Natalie Phillips 3949 Gladestone 3 grade
36 Brandon Penrose 2615 Phillips st 3 grad
37 Brittany popovich 32 Galixy drive 3 gra
38 J.T. McIntyre 3640 Colubus Ave Third
39 Johnna oaklane 6X 2 A 3grad
40 Chelsie 3463 Hannibal grade 3
41 Kelly Butler 2430 Black tail loop Rd. grade 3
42 Katelyn Mccarthy 110 Larkspur grade 3
43 Sean Russell 210 Metwelr 3 grade
44 wade Morris 2901 Quincy 3rd grade
45 Rory Richards 3601 ELizabith Warren
46 Jason Reeynolds 7 Redwood 3rd grade
47 Whitney Walsh (Whitney Walsh) 4th grade 2310 Prinsto.
48 Julie H. 2 grade
49 Kayala H. Kindergaudarn
50 Jared thS 3949 Gladestone

1 Levi Davenport

2 Amy Carlson 2800 Hanibal rd 6 th grad

3 Kally Louney 2540 Florle Third

4 Dannielle Hall 3405 Hanible secent

5 cassie Austin 407 Grandve dr.

6 Kara Hawke 3510 Passmore cris Secint

7 Johnna Forrow oak lane box 24 estong grad

8 Katie Cummings 4130 Hillside Dr.

9 Haley Beaudry 1 Redwood Dr.

0 Carl Jones ~~494~~ 4016 3717 Agust

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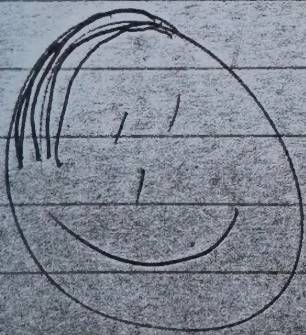
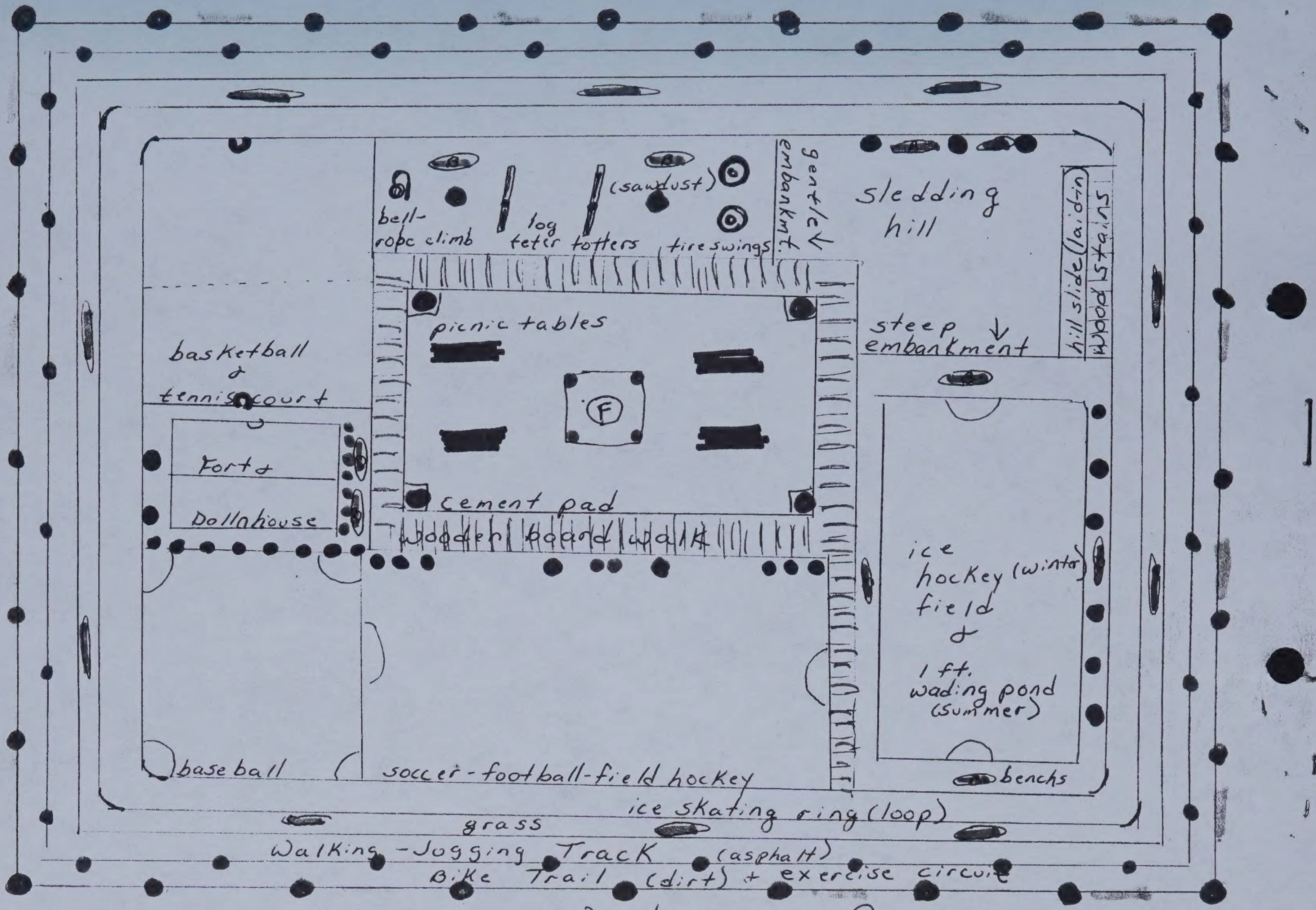
P.S. We want a park at the bike trails please
it at the bike trails itdirtey so we want it fixed up
we want a park please please please



Sign↑


bell-rope climb
log teter totters
(sawdust)
fire swings
gentle embankmt.
sledding hill
hill slide (laid-in)
wood stairs
steep embankment
picnic tables
F
basketball & tennis court
Fort & Dollhouse
cement pad
wooden board walk
ice hockey (winter) field & 1 ft. wading pond (summer)
benchs
baseball
soccer-football-field hockey
ice skating ring (loop)
grass
Walking-Jogging Track (asphalt)
Bike Trail (dirt) + exercise circuit

Western Willows Park

● willow tree
● pine tree
pontatellos
● perrenial flowers
● lilacs
exercise circuit boards
● wood benchs
Ⓕ - drinking fountain pump
wood walk

Silver Bow Co.
BSB DRAFT
2/5/97
Old Butte #20
closure

PROPOSED SCHEDULE

Closure of the Old Butte-Silver Bow Landfill and Clark Tailings Area and Proposed Use of the Clark Tailings as a Disposal Site for Lower Area One Wastes

January 28, 1997	**Preliminary Approval by Montana Department of Environmental Quality of the *Corrective Measures Assessment Report***
January 30, 1997	**Submission of *Addendum No. 1: Clark Tailings Alternative Repository for Lower Area One Wastes* to the U.S. Environmental Protection Agency**
Wednesday, February 5, 1997	**Public Comment Period Begins on Proposed Plan; presentation before the Butte-Silver Bow Council of Commissioners; pertinent documents available for public review;**
Tuesday, February 11, 1997	**Public Information Meeting in affected neighborhoods; 7pm, Boulevard Fire Hall, Franklin Street, Butte, MT. Project presentation followed by questions and answers for neighborhood residents and general public.**
Wednesday, February 19, 1997	**Public Hearing before the Butte-Silver Bow Council of Commissioners, 7:30pm, Courthouse, 3rd Floor, Council Chambers, Granite Street, Butte, MT. Public testimony, comments, questions, welcome.**
Friday, February 21, 1997	**Public Comment Period Ends. Regulatory agencies begin review of public comments.**
Monday, March 3, 1997	**Final Decision by State and EPA on Proposed Plan. After review of public comments, the regulatory agencies will make final decision on proposed plan.**
Construction Season, March-November, 1997	**Transfer of Lower Area One Wastes to alternative repository.**
Construction Season, March-November, 1998	**Completion of transfer of Lower Area One Wastes to alternative repository. Construction of recreational facilities.**
September 1, 1998	**Target Date to open recreational facilities for public use.**

ATTACHMENT B-1

Butte-Silver Bow Planning Board

February 3, 1997

Chief Executive Lynch and
Council of Commissioners
Butte-Silver Bow Government
Courthouse Building
Butte, MT 59701

Comm. #9448

RE: Combined Closure of the Old Landfill and the Clark Tailings; Request time to discuss at February 5 Council meeting and to hold a public hearing on February 19

Ladies and Gentlemen:

As you are aware, for the past two years Butte-Silver Bow has been working with the Montana Department of Environmental Quality (MDEQ) on an acceptable closure plan for the Old Butte Landfill. In developing this plan, Butte-Silver Bow has also been working with MDEQ, EPA, and ARCO to determine the feasibility of reclaiming the adjacent Clark Tailings in combination with the landfill closure and utilizing the Clark Tailings area as a repository for the Colorado Tailings.

In January, Butte-Silver Bow consultants submitted a final draft of the closure plan, called the "Butte-Silver Bow Landfill/Clark Tailings Corrective Measures Assessment" to the agencies for review. On January 28, the MDEQ and EPA tentatively approved the plan, subject to community acceptance and a public comment process.

With your concurrence, all parties would attend the Council of Commissioners meeting on February 5 and be prepared to make a presentation about the corrective measures to be implemented, including a thorough description how, when, and where anticipated work will be completed. The presentation will also address the proposed final land use plan for the reclaimed area -- a multi-use recreational facility complete with baseball and softball fields, "Little Guy" football fields, a golf driving range, concession/restroom facility, picnic area, and parking lot.

With your concurrence, the Council presentation on February 5 would kick off the public comment period which would continue through a formal public hearing on February 19 in the Council Chambers and conclude on February 21. At your request, the parties could also be available to participate in a neighborhood meeting to discuss the plan.

Sincerely,

Jon C. Sesso
Planning Director/Superfund Coordinator

COURTHOUSE • BUTTE, MONTANA 59701 • 406/723-8262